

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELA ARDO and JEAN : CIVIL ACTION
MONAGHAN, individually :
and as personal :
representative/ :
administrator of the :
Estate of her son, :
ANTHONY ARDO, :

Plaintiffs,
VS.

OFFICER EDDIE PAGAN, in
his individual capacity
as a Pennsylvania State
Police Trooper, and
OFFICER JAY SPLAIN, in
his individual capacity
as a Pennsylvania State
Police Trooper,

Defendants. : NO. 5:18-cv-05217-EGS

Oral deposition of OFFICER EDDIE PAGAN

Thursday, August 22, 2019

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OFFICER EDDIE PAGAN

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Oral deposition of OFFICER EDDIE PAGAN,
taken at Office of the Attorney General, 1600 Arch
Street, Suite 300, Philadelphia, Pennsylvania, on
Thursday, August 22, 2019, beginning at
approximately 11:14 a.m., before Elizabeth Kelly,
Professional Reporter and Notary Public in and of
the Commonwealth of Pennsylvania.

OFFICER EDDIE PAGAN

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OFFICER EDDIE PAGAN

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I N D E X

- - -

WITNESS:	PAGE
OFFICER EDDIE PAGAN	
EXAMINATION	
By Mr. DiJiacomo	5, 64
By Ms. Le	59

EXHIBITS

EXHIBIT NO.	DESCRIPTION	MARKED
Exhibit A	Transcript of the Interview of Eddie Pagan	8
Exhibit B	Transcript of the Interview of Jay Splain	10
Exhibit C	Investigation Report	43

OFFICER EDDIE PAGAN

1 THE REPORTER: Usual stipulations?

2 MS. LE: Yes. I want to reserve the right
3 to read and sign.

4 MR. DIJIACOMO: Of course.

5 - - -

6 (By agreement of counsel, the
7 sealing, certification and filing are
8 waived; and all objections, except as to
9 the form of the question, are reserved
10 until the time of trial.)

11 - - -

12 OFFICER EDDIE PAGAN, having been
13 first duly sworn to tell the
14 truth, was examined and
15 testified as follows:

16 - - -

17 EXAMINATION

18 - - -

19 BY MR. DIJIACOMO:

20 Q Good morning, sir.

21 A Good morning.

22 Q Again, for the record, my name is Anthony
23 DiJiacomo. I represent the estate of Anthony Ardo
24 and his parents in a lawsuit against you and Trooper

OFFICER EDDIE PAGAN

1 Splain. I just want to go over a few ground rules
2 just so we go okay throughout the process today.

3 A Uh-huh.

4 Q As you respond to questions, make sure
5 that they're verbal responses. I noticed in the
6 prior interview, you tend to nod your head slightly,
7 which is perfectly reasonable in everyday
8 conversation, but for the transcript, we do need
9 verbal responses so your responses are clear.

10 A All right.

11 Q Okay. You understand that you're under
12 oath and it has the same weight or meaning as if you
13 were in a courtroom before a judge and jury?

14 A I do.

15 Q Okay. Any reason why you wouldn't be able
16 to testify truthfully today?

17 A And reason why I would?

18 Q Would not be able to testify truthfully
19 today?

20 A No.

21 Q Okay. You're not under the influence of
22 any medication, alcohol, drugs?

23 A No.

24 Q Okay. If there's a question I ask that

OFFICER EDDIE PAGAN

1 you don't understand, most likely because I'm not
2 making sense, tell me.

3 Okay?

4 A Okay.

5 Q If you respond to a question, we're going
6 to assume that you understood it.

7 Fair enough?

8 A Fair enough.

9 Q All right. Throughout the questioning,
10 which I don't expect to be long, if you need to take
11 a break at any time for any reason, just tell me. I
12 may ask you to answer a pending question first, but
13 again, this isn't a marathon by any means. With
14 that said, I don't expect us to be here long, maybe
15 an hour, maybe two.

16 A Okay.

17 Q Any questions for me before we get
18 started?

19 A No.

20 Q Okay. Let's see. You gave a statement
21 that was videotaped and transcribed. I'll tell you
22 the date was June 16th, 2017; correct?

23 A I don't recall the specific date, but that
24 sounds about right.

OFFICER EDDIE PAGAN

1 Q Okay. And I'm going to show you a
2 document --

3 MS. LE: For the record, I believe it was
4 June 20th, 2017.

5 THE WITNESS: Yeah, it was June 20th.

6 BY MR. DIJIACOMO:

7 Q Okay.

8 A The incident occurred on May 20th. Can I
9 see that?

10 Q Yes.

11 MS. LE: Jay Spain's was June 16th.

12 MR. DIJIACOMO: Ah, understood. All
13 right, thank you.

14 THE WITNESS: Don't recall the date.

15 - - -

16 (Exhibit A was marked for
17 identification.)

18 - - -

19 BY MR. DIJIACOMO:

20 Q So let me mark -- I'm going to mark that
21 as an exhibit after the fact as Exhibit A.

22 Have you ever seen a copy of your
23 transcript before?

24 A No. Well, yesterday.

OFFICER EDDIE PAGAN

1 Q Okay. Did you review it yesterday?

2 A Yes.

3 Q Excellent. The statement that you gave on
4 June 20th, 2017, was it accurate?

5 A Yes.

6 Q Okay. Was there any intent to mislead in
7 any accurate statements that you gave?

8 A No.

9 Q Okay. But that statement was not under
10 oath; correct?

11 A I don't recall. They read me my Miranda
12 rights.

13 Q Okay, fair enough.

14 A I don't remember if I had a -- if it was
15 under oath, don't remember.

16 Q Okay, understood, though.

17 But even though it wasn't under oath,
18 here -- sitting here today under oath, you do state
19 that the statement, the facts that you gave in that
20 June 20th, 2017 statement were true and accurate to
21 the best of your understanding?

22 A Correct, they were.

23 Q Okay. And since giving that statement,
24 have you learned anything that you had stated that

OFFICER EDDIE PAGAN

1 day that was incorrect?

2 MS. LE: Objection to form.

3 THE WITNESS: No.

4 BY MR. DIJIACOMO:

5 Q Okay, okay. We can push that to the side
6 then, and let's go off the record for a second.

7 (Discussion was held off the record.)

8 - - -

9 (Exhibit B was marked for
10 identification.)

11 - - -

12 BY MR. DIJIACOMO:

13 Q I'm going to show you a statement from
14 Trooper Splain, if I'm pronouncing it correctly?

15 A Correct.

16 Q Dated June 16th, 2017.

17 Have you ever reviewed his statement?

18 A No.

19 Q Okay. Put that to the side then. Fair
20 enough. All right, I have a few questions about the
21 circumstances of the statement that you gave on
22 June 20th, 2017. Throughout the statement, as
23 anyone would, it gave the speaker who gave each
24 statement.

OFFICER EDDIE PAGAN

1 Make sense?

2 A Yes.

3 Q Okay. Everk, E-V-E-R-K, is one of the
4 individuals on the transcript?

5 A Everk, yes.

6 Q Who is he?

7 A He's a -- he's a criminal investigator
8 with the crimes unit for Troop M Bethlehem and also
9 the major case team.

10 Q Help me here, does that Troop M, does that
11 sit at your barrack?

12 A No.

13 Q Okay.

14 A Well, Troop M is the whole -- is the whole
15 troop that has a total of six different substations
16 -- well, five substations and Bethlehem is the
17 headquarter, which is the sixth station. So five
18 plus six, six stations in Troop M.

19 Q Okay. Which troop are you in as of 2017?

20 A The troop is M. I was in Troop M for my
21 whole career.

22 Q Okay.

23 A Different barracks.

24 Q But you sat at the Bethlehem barracks?

OFFICER EDDIE PAGAN

1 A During the incident, I was in the Belfast
2 barracks.

3 Q Belfast?

4 A Belfast and Bethlehem is the headquarters.
5 Trooper Everk is in Bethlehem headquarters.

6 Q Okay. And he was the criminal homicide
7 investigator?

8 A Correct.

9 Q Who is Mr. Judge?

10 A Trooper Judge is another criminal
11 investigator, also the major case team as well in
12 Troop M in Bethlehem headquarters.

13 Q Okay. And then did you have an attorney
14 at that time?

15 A Yes, I did.

16 Q What was his name?

17 A Trooper -- Attorney Mark Minotti.

18 Q Okay. And was that an attorney that you
19 retained?

20 A Yes.

21 Q Okay. Did, for the lack of a better term,
22 did the union provide any representation?

23 A Initially, they did. And then it was
24 their suggestion for me to hire my own personal

OFFICER EDDIE PAGAN

1 attorney at their expense.

2 Q At their expense?

3 A Correct.

4 Q Understood, okay.

5 Who is the -- did you have any
6 conversations with the initial attorney?

7 A With the initial attorney?

8 MS. LE: Objection to the form.

9 BY MR. DIJIACOMO:

10 Q Who was the first attorney that -- who was
11 the attorney the union --

12 A I forgot the name.

13 Q Okay.

14 A I forgot the name.

15 Q Okay. Did you have any conversations with
16 that attorney?

17 A Yes.

18 Q Okay, all right.

19 Was anyone else present for the
20 transcribed interview?

21 A For the transcribed interview, besides the
22 people listed in the actual -- in the transcript, I
23 do not recall, but I believe, no.

24 Q Okay, all right. In advance to the

OFFICER EDDIE PAGAN

1 June 20th, 2017 interview, did you have any
2 discussion with Trooper Splain concerning the
3 incident?

4 A Yes.

5 Q Okay. On more than one occasion?

6 A I believe so, yes.

7 Q Okay. Let me back up for a second.

8 Between the date of the incident --
9 when I say "incident," we're talking about the May
10 20th --

11 A Correct.

12 Q -- shooting.

13 Fair enough?

14 A Fair.

15 Q Okay. Between the date of the incident
16 and in your interview, were you on leave?

17 A On leave? No, I was on administrative
18 duty.

19 Q Okay. Meaning you were assigned to a
20 desk?

21 A Meaning I was assigned to do clerical work
22 at the station.

23 Q Okay. Were troopers from your station
24 assisting in the investigation?

OFFICER EDDIE PAGAN

1 MS. LE: Objection to form.

2 THE WITNESS: I guess I have to answer
3 that?

4 MS. LE: If you understand the question.

5 THE WITNESS: I don't know. I wouldn't
6 know.

7 BY MR. DIJIACOMO:

8 Q Okay. Did you have any conversations with
9 any -- anyone other than your attorneys or Trooper
10 Splain concerning the incident or the results of any
11 investigation into the incident prior to your
12 interview?

13 A I was told not to speak to anyone, and I
14 don't believe I ever spoke to anyone about it
15 besides my attorney, you know, and Trooper Splain.

16 Q Okay, all right.

17 Do you know how many occasions you
18 spoke with Trooper Splain about the incident prior
19 to the interview?

20 A No, prior to --

21 Q Prior to the June 20th, 2017 interview?

22 A Don't recall.

23 Q Okay. Can you estimate at all?

24 A No.

OFFICER EDDIE PAGAN

1 Q Would it -- okay.

2 Can you state whether it was more
3 than five times?

4 A I really can't.

5 Q Okay. Can you state the purpose for
6 discussing the incident with Trooper Splain?

7 A Learning from experience, the technical
8 mistakes or technical soundness that we exhibited in
9 that incident, but.

10 Q And that was in advance to the June 20th,
11 2017 interview?

12 A It was -- if you mean in advance to
13 preparation to the interview, no. It was just us
14 talking.

15 Q I meant prior to?

16 A Prior to, okay. Yeah.

17 Q Okay.

18 A It was probably immediately afterwards,
19 next day or so, couple days or so.

20 Q Okay. Did anyone advise you not to speak
21 with Trooper Splain in advance to the recorded
22 interview?

23 A Don't recall, so no.

24 Q Okay. Did you or, to your knowledge,

OFFICER EDDIE PAGAN

1 Trooper Splain determine that there were any
2 tactical errors that either you or Trooper Splain
3 exhibited on the day of the incident?

4 A No.

5 Q Okay, all right. Were you provided any
6 type of evidence of the incident in advance to the
7 June 20th, 2017 interview?

8 MS. LE: Objection to the form. Just so
9 you know, if I -- just if I say "objection to
10 form," it's for the record.

11 THE WITNESS: Okay.

12 MS. LE: You can still answer the
13 question --

14 THE WITNESS: Okay.

15 MS. LE: -- if you understand it.

16 THE WITNESS: The only thing was I was
17 able to review the little bit of MVR that was
18 actually available from the incident.

19 BY MR. DIJIACOMO:

20 Q Do you recall -- do you recall how long
21 after the incident you were provided access to the
22 MVR?

23 A I believe it was prior to my interview,
24 like, a week prior or so. I really didn't want to

OFFICER EDDIE PAGAN

1 watch the MVR to begin with.

2 Q Who provided to you the MVR radios?

3 A Radios? The MVR recordings?

4 Q Yes. Let's make sure we're talking about
5 the same thing.

6 A Yes.

7 Q Okay. When I refer to "MVR," what do you
8 take that as?

9 A As the actual visual footage.

10 Q Ah, from the vehicles?

11 A From the vehicles, correct.

12 Q Okay. And you were able to see the
13 footage from both vehicles in advance to the
14 interview?

15 A Correct.

16 Q Okay. Were you also provided transcripts
17 or audio of the calls?

18 A No.

19 Q Okay, all right. Understood.

20 Who provided you access to the
21 footage, the MVR footage?

22 A I believe it was the -- it's always all
23 foggy in my mind. I believe at the request of my
24 attorney, it was the crimes -- crimes supervisor.

OFFICER EDDIE PAGAN

1 Q And --

2 A I might -- I might not be right, but I
3 don't fully remember that point in time, but if I
4 had to take an educated guess, I believe it was the
5 crimes supervisor.

6 Q Okay. But your understanding is that your
7 attorney provided you the videos? He --

8 A My attorney suggested we see the video
9 prior to giving our statement.

10 Q Okay. Who physically gave you access to
11 the videos?

12 A I don't know.

13 Q Not --

14 A I don't remember.

15 Q Okay, all right.

16 A I don't recall.

17 Q All right. So you don't know who
18 authorized you seeing the videos?

19 A The authorization had to come from the
20 crimes supervisor.

21 Q Okay.

22 A And I believe it was him that gave it to
23 us. I believe he gave it to Trooper Splain first,
24 and once Trooper Splain was able to review, it was

OFFICER EDDIE PAGAN

1 passed down to me for me to review on my own time.

2 Q Okay. Do you know who the name of the
3 supervisor was?

4 A Corporal Blare Talijan.

5 Q Do you know how to spell that?

6 A Which one?

7 Q The last name.

8 A T-A-L-I-J-A-N.

9 Q Okay. And just to confirm, Everk and
10 Judge reported to that corporal?

11 A No. They don't report to that corporal.
12 No, he's -- that corporal is in charge of -- he's
13 the evidence custodian in Belfast.

14 Q Okay, okay.

15 A So anything that had to deal with evidence
16 or stuff like that, has to go through him through
17 that station. That's pretty much -- everything runs
18 through him.

19 Q Even though the investigation was being
20 run through --

21 A Yes, because he's the one that has to
22 actually authorize and get out for whatever, and I
23 don't know where they keep the stuff at. I'm just a
24 lowly trooper. I don't have --

OFFICER EDDIE PAGAN

1 Q Okay, understood.

2 So the incident took place on May
3 20th, 2017; correct?

4 A Correct.

5 Q And your interview took place on June
6 20th, 2017?

7 A Correct.

8 Q Do you have an understanding as to -- I
9 don't want to characterize it as the delay, but why
10 it was -- the interview was taken 30 days later?

11 A Yes.

12 Q What was that?

13 What's your understanding?

14 A There was a dispute as to who was going to
15 be taking over the investigation between the
16 Pennsylvania State Police, major case team, or the
17 district attorney's office, at which point we didn't
18 know who was handling the investigation, and per my
19 attorney, we waited to -- on clarification and
20 proceeded forward. I want it to be stated that from
21 the moment that it occurred, my attorney and I made
22 known that we were ready to give a statement at any
23 time they were ready.

24 Q How so?

OFFICER EDDIE PAGAN

1 How was it made known?

2 A My attorneys informed -- informed district
3 attorney's office and the Pennsylvania State Police.

4 Q Okay. Have you seen any writing or letter
5 between your attorney and the DA stating so?

6 A No.

7 Q Okay. So you couldn't tell me whether it
8 was in writing or orally?

9 A I wouldn't be able to tell you that.

10 Q Okay. And that communication, did that
11 come from the union-provided attorney or
12 Mr. Minotti?

13 A Both.

14 Q Okay, all right. Understood.

15 Did you ever provide any independent
16 statement, other than the June 20th, 2017, to the
17 district attorney?

18 MS. LE: Objection to form.

19 THE WITNESS: Only the grand jury.

20 BY MR. DIJIACOMO:

21 Q Okay. And it's fair to assume that your
22 grand jury testimony was consistent with the
23 June 20th, 2017 statement?

24 A Yes.

OFFICER EDDIE PAGAN

1 Q Okay. Do you know whether your attorney
2 was contacted for -- strike that. Let me revise.

3 Do you know when you or your attorney
4 were first contacted requesting an interview?

5 MS. LE: I'm going to make a general
6 statement here. You're doing fine, but
7 don't -- in your answers, don't reveal any of
8 your communications with --

9 THE WITNESS: With my attorney --

10 MS. LE: -- your attorney.

11 THE WITNESS: Yes, I understand that.

12 MS. LE: Okay.

13 THE WITNESS: Can you repeat the question
14 again?

15 BY MR. DIJIACOMO:

16 Q Do you know when either the district
17 attorney or the homicide investigation officers,
18 troopers, first contacted you or your attorney
19 requesting a transcribed interview?

20 A I don't remember.

21 Q Okay, fair enough.

22 A I let my attorney handle and tell me where
23 to show up and where to speak. And I show up, and I
24 speak.

OFFICER EDDIE PAGAN

1 Q Okay, all right. New topic. I want to
2 understand what triggers the MVR to start recording
3 videotapes.

4 When you turn on your vehicle, do you
5 have an understanding as when the MVR begins to
6 record?

7 A Let me preface this by saying I'm no MVR
8 specialist whatsoever, but, you know, due to this
9 whole incident, I've gained a little bit of
10 knowledge of how the MVR works. So what would be
11 your question again?

12 Q Based on your knowledge, which is a
13 general rule for any of these questions, do you have
14 an understanding as to when the MVR begins to record
15 after turning on a vehicle?

16 A Yes.

17 Q When?

18 A Approximately a minute after you turn on
19 the vehicle.

20 Q And your --

21 A That's my understanding.

22 Q Okay. Have you been told at all that it
23 starts 30 seconds as opposed to 60 seconds after?

24 A Like I said, I'm not really a -- I believe

OFFICER EDDIE PAGAN

1 I was told a minute.

2 Q Okay, understood.

3 If you turn on your flashing lights,
4 does that immediately trigger the recording?

5 A If the car has been on prior, yes.

6 Q Okay. If you turn on the vehicle, will
7 the vehicle -- will the MVR begin to automatically
8 record after 60 seconds?

9 A That is my rudimentary understanding.

10 Q Okay. If the car has been on for over a
11 minute, does turning on the flashing lights affect
12 the MVR, to your understanding?

13 A It should.

14 Q How?

15 A It should work.

16 Q It should record?

17 A It should record, yes.

18 Q Okay. Does it change by turning on the
19 flashing lights, does it change the storage of the
20 recording?

21 MS. LE: Objection to form.

22 THE WITNESS: I don't have any knowledge
23 of how the storage works.

24

OFFICER EDDIE PAGAN

1 BY MR. DIJIACOMO:

2 Q Okay. Is there a button on your steering
3 wheel that affects the MVR recording?

4 MS. LE: Objection to form.

5 THE WITNESS: It's a button in the
6 steering wheel that turns on the lights, which,
7 in essence, turns on the MVR as well.

8 BY MR. DIJIACOMO:

9 Q Okay. Is there a button on your uniform
10 that starts the MVR recording?

11 A Yes, it's on the mic portion that's placed
12 on the lapel.

13 Q Okay. If the car is on but has not been
14 recording for -- I'm sorry, let me rephrase that.

15 If the car is on, but has not been on
16 for a minute yet, to your understanding, does the
17 lapel trigger an immediate recording?

18 MS. LE: Object to form.

19 THE WITNESS: After this investigation, I
20 found out a little bit that it does not.

21 BY MR. DIJIACOMO:

22 Q Okay. There's a delay still?

23 A I believe so, yes.

24 Q Okay.

OFFICER EDDIE PAGAN

1 A Like I said, I'm no expert in the MVR
2 system. I'm sure you could refer to the detailed
3 letter by WatchGuard that was provided to the state.

4 Q Understood, okay.

5 Prior to the incident, did you have
6 any training -- is there any policy directive as to
7 using flashing lights during incidents?

8 MS. LE: Object to the form.

9 THE WITNESS: Can you repeat the question
10 again?

11 BY MR. DIJIACOMO:

12 Q To your knowledge, is there -- let me put
13 it like this, during the actual incident, you walked
14 to the back of your -- of the back of the property
15 where your vehicles were parked, got in the vehicle
16 and approached Mr. Ardo's vehicle --

17 A Correct.

18 Q -- correct? Okay.

19 To your knowledge, did you violate
20 policy by not turning on the flashing lights once
21 you started the vehicle?

22 A No.

23 Q Okay. To your knowledge, is there any
24 directive or policy requiring you to turn on the

OFFICER EDDIE PAGAN

1 lights as you're approaching a vehicle to stop it?

2 A I'm misunderstanding the question.

3 Can you just repeat it again?

4 Q Absolutely. To your knowledge, is there
5 any policy or directive instructing a trooper to
6 turn on their flashing lights as they approach a
7 vehicle to stop it?

8 A For a traffic stop, I believe so.

9 Q Okay. How about for a stop where you're
10 having to stop a vehicle where it's -- from getting
11 away?

12 A I don't -- I don't understand the context
13 of the question. Can you be a little more clear?

14 Q When you got in the vehicle and drove
15 towards Anthony Ardo's vehicle, was there any point
16 in time where you turned on the flashing lights?

17 A I believe I didn't.

18 Q Okay. And before you got out of the
19 vehicle, did you turn on the flashing lights?

20 A No.

21 Q To your knowledge, is there any policy
22 directive directing you to do otherwise?

23 A For that specific circumstance, no.

24 Q Okay, all right. You would agree with me

OFFICER EDDIE PAGAN

1 that the video recorded by the MVR from your vehicle
2 of the incident does not capture -- well, let me
3 rephrase that -- begins after the first shot is
4 fired?

5 A That I would agree with you -- that I
6 would agree with you what?

7 Q That the video from your vehicle --

8 A Uh-huh.

9 Q -- from the MVR, the footage begins after
10 the first shot is fired?

11 A Yes.

12 Q Okay, all right. Are you aware of any
13 recording of the interaction between you and Officer
14 Splain with Anthony Ardo prior to the MVR footage
15 beginning?

16 A Am I aware of any recording of interaction
17 with Mr. Ardo prior to the MVR recording?

18 Q Yes.

19 A No.

20 Q Okay, all right. All right, let's go to
21 the date of the incident, talk through that.

22 All right?

23 A Okay.

24 Q I have your -- the statements you made

OFFICER EDDIE PAGAN

1 before so I'm not going to walk you through the
2 entire incident, I just have certain questions I
3 want to understand?

4 A Okay.

5 Q Hopefully, it will make this a little bit
6 less painful.

7 Prior to Anthony Ardo arriving at the
8 residence, you heard certain statements, certain
9 phone calls between Anthony Ardo and his mother;
10 correct?

11 A Correct.

12 Q Okay. What I'm unclear on is, did Anthony
13 ever make any threats involving a firearm?

14 A Yes.

15 Q He did?

16 A Yes.

17 Q Okay. My understanding is that you
18 overheard three phone calls, correct, between Ms.
19 Monaghan and Anthony Ardo?

20 A Correct.

21 Q Okay. Do you recall in which or which
22 phone calls involved Anthony making a threat of a
23 gun, using a gun?

24 A It was the first phone call.

OFFICER EDDIE PAGAN

1 Q Okay. Do you recall the actual words
2 Anthony used?

3 A Yes. He said, I'll get a gun and blow my
4 head off.

5 Q Okay. So in addition to saying "I'll blow
6 my head off," he also said, "I will get a gun"?

7 A Yes.

8 Q Okay, understood.

9 Did Anthony make any reference to a
10 firearm in the second or third phone call?

11 A I'm just trying to -- there's three phone
12 calls, I'm trying to remember them. In regards to a
13 firearm, it was only the first phone call.

14 Q Okay, all right. At some point during
15 those three phone calls, Anthony threatened to at
16 least blow himself up; correct?

17 A At least, yes.

18 Q Okay.

19 A Him and others.

20 Q That's where I'm going.

21 Do you recall Anthony making a threat
22 to blow up anyone else?

23 A Yes.

24 Q Who?

OFFICER EDDIE PAGAN

1 A His exact word was everyone -- everyone --
2 and everyone involved, everyone else.

3 Q And that was on the condition if officers
4 were present?

5 A Correct.

6 Q Okay. And your recollection is that
7 Anthony specifically stated whoever was involved or
8 whoever was there, something along those lines?

9 A Correct.

10 Q Okay, all right.

11 To your knowledge, after hearing
12 Anthony make a threat concerning possessing and
13 using a bomb, did, to your knowledge, you or
14 officer -- or Trooper Splain request backup?

15 A No.

16 Q Why not?

17 A We were the only ones in the area.

18 Q And what do you mean by "area"?

19 A We, the state police covers over 350
20 square miles in our barracks by ourselves. At any
21 given moment in time, we only have, like, three
22 troopers working.

23 Q All right. When you say "350 square
24 miles," are you referring to Belfast?

OFFICER EDDIE PAGAN

1 A Yes.

2 Q Okay.

3 A Roughly. The mileage is not --

4 Q Understood, understood.

5 To your knowledge, how many troopers
6 were on-duty during that shift from Belfast?

7 A I don't remember exactly. I believe it
8 was four.

9 Q Okay. I'll tell you that was my
10 understanding as well.

11 A Okay.

12 Q What was the distance between, the best
13 you can estimate in time or miles, between the
14 residence and the Belfast barrack?

15 A The what?

16 Q The residence, the property?

17 A Roughly 20 minutes.

18 Q Okay. To your knowledge, was -- where
19 were the other two officers, other than you and
20 officer -- or Trooper Splain?

21 To your knowledge, were the two other
22 officers at the barracks, let's say, between the
23 timeframe of 9:00 a.m. and 10:00 a.m. on May 20th?

24 A I don't know their actual locations at

OFFICER EDDIE PAGAN

1 that time.

2 Q Okay. To the residence, where is the
3 closest local police station?

4 MS. LE: Object to the form.

5 THE WITNESS: Probably Washington
6 Township. It'd probably be around the same
7 distance.

8 BY MR. DIJACOMO:

9 Q Okay. But despite the bomb threat, you
10 didn't feel a need to contact either one for backup?

11 A No.

12 Q Is that mainly just because of the
13 distance, or were there other factors?

14 A There were other factors.

15 Q What were the other factors?

16 A We -- we already had two troopers on
17 scene, and bringing any more of the cops into the --
18 into the house would just congest the area, making
19 us more visible from far, making it less likely for
20 Ardo -- Mr. Ardo to actually show up at the
21 residence or take off. The proverbial "too many
22 chefs in the kitchen" scenario.

23 Q You had training during, forgive me, for
24 lack of a better term, "basic training," at the

OFFICER EDDIE PAGAN

1 academy?

2 You had basic training on bombs
3 there; correct?

4 A Correct.

5 Q Okay. But you agree it was pretty basic?

6 A Yes.

7 Q Okay. If you had called backup, where
8 would the closest bomb specialist have been out of?

9 A The state police Hides Unit (ph), which is
10 the unit that deals with bombs. I believe they have
11 one person that covers the whole eastern side of
12 Pennsylvania.

13 Q Okay.

14 A And he could be anywhere any given time.

15 Q All right. To your knowledge, is that
16 person assigned to any particular barrack?

17 A No, he's assigned to the BSOL (ph).

18 Q What's that?

19 A Bureau of Special -- I should know this.
20 I'm blanking out right now. It's called BSOL. It's
21 the special unit for -- it's the bureau for special
22 units like the SWAT -- like our SWAT team, the Hides
23 team, the canine team, any specialized unit.
24 They're the ones that oversee that bureau.

OFFICER EDDIE PAGAN

1 Q But those units aren't located in any
2 specific spot?

3 A No.

4 Q Okay. The last question in this area:
5 Did you consider calling an EMT before Anthony
6 arrived?

7 A Did we consider calling any what?

8 Q EMT?

9 A EMT?

10 Q Paramedic.

11 A No.

12 Q Any reason why not?

13 A The EMT -- the EMT would not be able to do
14 anything we were not able to do as far as detaining
15 him. It would also put them at risk, so. Plus, he
16 was not home. So what, we were going to call extra
17 people to come to the scene when we don't know where
18 he's at?

19 Q Okay. Do you ever put an EMT or paramedic
20 on standby?

21 A Yes. When we know where the person's at.

22 Q Okay, all right.

23 Okay, during the three phone call
24 conversations that you overheard, what do you

OFFICER EDDIE PAGAN

1 recall -- how do you recall Anthony describing the
2 bomb?

3 A He just said -- just described it as a
4 bomb with nails.

5 Q Did he say where it was on him?

6 A I'm going to strap up a bomb to my neck
7 with -- with nails, along those lines.

8 Q And to your recollection, Anthony Ardo
9 specifically said nails?

10 A Yes.

11 Q Okay, all right.

12 Did you take the bomb threat
13 seriously?

14 MS. LE: Objection to form.

15 THE WITNESS: I've heard people make
16 threats all the time. I considered it was
17 fake, but you never know.

18 BY MR. DIJIACOMO:

19 Q Okay, all right. All right, I want you to
20 walk through what occurred, but beginning at the
21 point where you reached your vehicle after you saw
22 Anthony arrive at the residence.

23 A So you want me to start from where?

24 Q When you reached your vehicle.

OFFICER EDDIE PAGAN

1 A So from the moment I left the house to go
2 back in my vehicle?

3 Q Yes, sir.

4 A You want to me to start from that point?

5 Q Yeah.

6 A So I run to the back of the house, get
7 inside my vehicle. I turn my vehicle on. I try to
8 navigate through a very hilly, rough terrain, being
9 careful. It was a very tight space. I didn't want
10 to crash my car before making it to the road. I'm
11 cutting the wheel, trying to make all these turns to
12 get around the house, very bad terrain, at which
13 point I come out and I see Trooper Splain, his
14 lights activated behind Mr. Ardo's vehicle, at which
15 point I come into the main road.

16 And I see Mr. Ardo's vehicle move
17 towards me and kind of like about to take off. At
18 which point, I'm thinking he's going to run me over.
19 Let me readjust the vehicle in a position where he
20 can't hit me. I come to park. I immediately jump
21 out of the car, draw my gun because his vehicle's
22 still not in park and still moving and mobile, which
23 poses a threat.

24 I activate -- I attempt to activate

OFFICER EDDIE PAGAN

1 my lights using my lapel mic with my left hand, at
2 which point I came out of the car, started giving
3 Mr. Ardo instructions and commands to let me see his
4 hands. At which point, I also see Trooper Splain
5 behind his car -- behind Mr. Ardo's car with his gun
6 drawn giving him also commands to come out, let me
7 see your hands.

8 I proceeded to do a tactical L to get
9 out of the line of Trooper Splain's gun and get a
10 better view of Mr. Ardo, because at which point --
11 at that point, I wasn't fully able to see inside --
12 inside his vehicle through his windshield. All I
13 saw was a silhouette of a man shaking.

14 Due to my experience with pulling
15 people out of cars and giving them commands, at that
16 time I believe that Mr. Ardo was doing one of these,
17 but I couldn't confirm. Some people exaggerate and
18 put the hands all the way up to show their hands,
19 when told to show their hands. Some people shrink
20 up with their hands by their shoulder side and
21 stiffen up as a sign of submission.

22 As I go towards the driver's side for
23 Mr. Ardo, I'm still unable to see inside his car
24 through his windshield, due to the gray overcast,

OFFICER EDDIE PAGAN

1 being under a tree, and the condensation inside his
2 vehicle. At which point, I keep giving Mr. Ardo
3 commands, to let me see your hands, let me see your
4 hands.

5 Mr. Ardo refuses to show me his hands
6 or look in my direction. At which point, I kept
7 going in closer, inching closer and closer with my
8 gun drawn at a lower ready, not pointed at him to
9 make sure that he actually has his hands up to then
10 take it to the next level of extract him out of the
11 vehicle.

12 As I got closer to Mr. Ardo, I was
13 approximately the distance from yourself and myself,
14 which, for the record, I'm going to estimate is
15 approximately three to four feet, Mr. Ardo turned
16 around, smiles at me with a maniacal look, lights up
17 a lighter, at which point it illuminates the cabin
18 from the inside, and he has the lighter in his right
19 hand and the fuse in his left hand attached to a
20 device in his neck, at which time I couldn't tell
21 what it was.

22 And he tries to light the fuse. I
23 know what a fuse is. A fuse is used to ignite
24 stuff. Based on his prior comments about having a

OFFICER EDDIE PAGAN

1 bomb around his neck and blowing it up with nails, I
2 determined it was some kind of device that put my
3 life, and his life, and Jay Splain's life in danger,
4 as well as the property around.

5 At that time, Trooper Splain was
6 simultaneously asking me if I see anything inside
7 the vehicle. At which time, I yelled to him, yes.
8 And I proceeded to shoot two rounds towards Mr. Ardo
9 through the door and proceeded to retreat from my
10 location to possibly outrun the blast.

11 Q All right.

12 A You want me to keep on going?

13 Q No, no, no.

14 A Okay.

15 Q I got questions.

16 A Okay.

17 Q Just give me a second.

18 When you get out of the vehicle, you
19 said that you attempted to activate the MVR from
20 your uniform?

21 A Lapel.

22 Q Lapel. But you used the word "attempted"?

23 A When I used the word "attempted," it's in
24 hindsight. I know it didn't work.

OFFICER EDDIE PAGAN

1 Q Okay, all right. Understood.

2 Did you know it at the time?

3 A No.

4 Q Okay, all right.

5 A I've used my mic lapel dozens and
6 countless times during investigations, and it's
7 worked every single time.

8 Q What does it look like?

9 A It's a little, square -- it's a little,
10 square device. It's actually the microphone that's
11 connected to the video recording system for that
12 specific car.

13 Q Okay. One button?

14 A Yes, one button.

15 Q That's it?

16 A Yup. It's one button at the top. It's
17 very big. It's meant to be able to reach in when
18 you need it because --

19 Q You need it?

20 A Yup, you need it.

21 Q Understood, all right. Good, all right.
22 Giving you two things. First, can we mark this
23 document as Exhibit C?

24 - - -

OFFICER EDDIE PAGAN

1 (Exhibit C was marked for
2 identification.)

3 - - -

4 BY MR. DIJIACOMO:

5 Q All right. Do you agree that this is the
6 investigative report on behalf of forensic services
7 concerning this incident? Take a minute.

8 A Let me review it first to make sure.

9 Q Absolutely.

10 A Without reading the actual report, I agree
11 this is actually a forensic unit report that seems
12 to be for the case I was involved in on May 20th.

13 Q Have you ever seen this report before?

14 A This particular report?

15 Q Yes.

16 A No.

17 Q Okay, all right. The reason I'm showing
18 it to you, turn to what looks like page eight or
19 what's marked at the bottom as DEF-97?

20 A That's the page number?

21 Q Yes.

22 A You mentioned something else. I thought
23 you said something else.

24 Q Yes. Right below that, there's another

OFFICER EDDIE PAGAN

1 number?

2 A Oh, I don't know what that number is.

3 Q I'll just say for the record. It's what's
4 called a Bates number, and it just identifies
5 documents that are exchanged between attorneys.

6 A Got it.

7 Q All right.

8 A It's actually part of our actual
9 investigation and reports.

10 Q Correct, yes. Absolutely. Looking at
11 this document -- let me just get some context first.
12 The box that's marked Buick, would it have been
13 Anthony Ardo's vehicle?

14 A Correct.

15 Q And the box marked M-6-8 would have been
16 the vehicle you were driving?

17 A Correct.

18 Q And the box marked M6-14, would have been
19 the vehicle that Trooper Splain was driving?

20 A Correct.

21 Q Okay. Can you just draw -- I just want to
22 understand and you can draw right on top of that.

23 A Okay.

24 Q I just want to understand your movement

OFFICER EDDIE PAGAN

1 and the L approach. So what I want you to do is,
2 just draw a line of your movements out of the
3 vehicle as you approached, as you maneuvered and
4 then backed up?

5 A Well, want to show -- state for the
6 record, that the actual position of this vehicle was
7 an outcome after the accident. The incident did not
8 occur when the vehicles were in this position.

9 Q So if I understand you correctly --

10 A Mr. Ardo's vehicle actually moved
11 before -- after we extracted him from the vehicle.
12 His vehicle was never put in park; it was still in
13 drive the whole time.

14 Q Understood.

15 A Which explains to me the whole his vehicle
16 was moving towards me and made me fear that he was
17 going to run me over.

18 Q All right. I don't want you to use that
19 map.

20 A All right, okay.

21 Q Explain in more detail then. So you got
22 out of your vehicle on the left-hand side, facing
23 Mr. Ardo's vehicle; correct?

24 A I get out from my car.

OFFICER EDDIE PAGAN

1 Q On the driver's side?

2 A Yeah, the driver's side.

3 Q Facing head-on to the vehicle?

4 A Correct.

5 Q To Mr. Ardo's vehicle?

6 A Correct.

7 Q You realized that you were in crossfire?

8 A Correct.

9 Q Okay. When you realized that, are you in
10 a 12 o'clock position with the vehicle directly in
11 front of you, with the head of the vehicle directly
12 in front of you?

13 A Mr. Ardo's vehicle was directly in front
14 of me, yes.

15 Q Okay. And then you move to your right?

16 A Correct. I move forward to the front of
17 my vehicle, cut across to the right, and move up,
18 which explains the imaginary L.

19 Q Okay, understood.

20 After Officer Splain pulled Anthony
21 Ardo out of the vehicle, was the bomb still attached
22 to him?

23 A Yes.

24 Q How was it attached?

OFFICER EDDIE PAGAN

1 A It was attached to his neck.

2 Q With duct tape?

3 A I don't recall.

4 Q Okay. Can you describe the bomb in more
5 detail to me?

6 A It seemed like what is more commonly
7 referred to as a mortar round. It was round, and it
8 was attached to his neck.

9 Q Round as in a ball?

10 A Say it again.

11 Q Round as in a ball or round as in like a
12 cylinder?

13 A Round as in a ball.

14 Q Okay. It had a fuse?

15 A Yes.

16 Q Was the bomb underneath his shirt?

17 A I don't remember exactly.

18 Q Okay.

19 A It was in that vicinity.

20 Q I've read somewhere that the fuse was
21 inserted through his shirt?

22 A It might have been. Like I said, I don't
23 remember.

24 Q Okay, understood. All right.

OFFICER EDDIE PAGAN

1 A I believe he had a sweatshirt if I'm not
2 mistaken.

3 Q Okay.

4 A Did he? I'm not sure.

5 Q I'm not sure either. We'll put that
6 aside.

7 A I'm not sure anymore.

8 Q As you were approaching the vehicle, did
9 you ever -- you said you saw movements?

10 A What -- you need to be more specific in
11 whatever regards you're talking.

12 Q As you approached the vehicle, were you
13 able to see into the vehicle -- strike that. At any
14 point prior to the shooting, did you see Mr. Ardo
15 put his hands up?

16 A No.

17 Q Okay. So when you were saying you weren't
18 sure if his hands were all the way up or by his
19 sides, you were just trying to see generally whether
20 they were even up?

21 A To clarify, when I came out the vehicle,
22 he was doing -- he was doing what seemed like a
23 shimmy, meaning he was moving his shoulders side to
24 side. At that point, I was under the assumption

OFFICER EDDIE PAGAN

1 that he was either trying to put his hands up
2 tensely or above, but being that I wasn't able to
3 see into the vehicle due to the weather, I was -- I
4 was trying to get further clarification of what his
5 actual movements were.

6 Q Okay. So you were able to see his
7 silhouette?

8 A Yes. The whole hands up is my assumption
9 at the time.

10 Q Okay. But to be clear, you never saw his
11 hands.

12 A Never saw his hands up.

13 Q Did you see his hands anywhere?

14 A I saw his hands on the lighter.

15 Q Okay.

16 A And on the fuse.

17 Q Okay. And that's the first time you saw
18 --

19 A That's the first time I saw his hands.

20 Q All right. So prior to the lighter being
21 ignited, illuminating the inside of the cab, the
22 only extent that you could see of Mr. Ardo is his
23 silhouette?

24 A At that time when I was next to him, all I

OFFICER EDDIE PAGAN

1 could see is the side of his head looking straight
2 ahead, avoiding any eye contact with me.

3 Q Okay. When did Anthony Ardo smile at you?

4 A When I got -- when I got close to him,
5 what I described earlier about three to four feet.

6 Q And that smile was prior to the igniting
7 of the lighter?

8 A It was concurrent. It was simultaneously.

9 Q Okay. And to be clear, he looked at you,
10 made eye contact and smiled?

11 A Yes.

12 Q Okay.

13 A A maniacal smile, not the smile that -- a
14 friendly smile, just to be -- clarify. Not that
15 smile that you just had right now.

16 Q Why do you say -- why do you describe it
17 that way?

18 A Because your smile looks friendly. His
19 smile did not look friendly.

20 Q Okay.

21 A More like a Jack Nicholson in the Shining
22 kind of smile. Does that put it in perspective?

23 Q It does.

24 A Does the reference help?

OFFICER EDDIE PAGAN

1 Q I'll have to go back and watch that. It's
2 been a while.

3 A Okay.

4 Q All right.

5 MS. LE: Anthony, this may be a good time
6 to take a quick break.

7 (Discussion was held off the record.)

8 BY MR. DIJACOMO:

9 Q All right. One more set of questions for
10 you, basically involving deescalation techniques.

11 During your training, have you been
12 trained on deescalation techniques generally?

13 A Generally, yes.

14 Q Okay. Did those trainings involve
15 deescalation techniques dealing with a suicidal
16 individual?

17 A I believe so, yes.

18 Q Okay. What techniques were you taught?

19 A It's just -- it's just -- it's not so
20 straight-forward. It's just take in the whole
21 circumstances, and then you just -- just
22 different -- different techniques based on the
23 person -- the person, the problems, his behavior at
24 the time, his motivations. It's just -- I can't

OFFICER EDDIE PAGAN

1 give you a clear cut. It's just based on my brief
2 training and in my experience throughout the years
3 of dealing -- it's just every circumstance is
4 different.

5 Q Are there any general principles that you
6 were taught to keep in mind?

7 A General principles in what sense?

8 Q Deescalation techniques, things to keep in
9 mind, approaches, any type of general approaches?

10 A I can't -- I can't think of --

11 Q All right, understood.

12 In this incident, no deescalation
13 techniques were performed; correct?

14 MS. LE: Objection to the form. You can
15 answer.

16 THE WITNESS: It was -- the situation did
17 not dictate to go to that point.

18 BY MR. DIJIACOMO:

19 Q And thus none happened?

20 A Yes.

21 Q Okay. Not suggesting that they should
22 have, just --

23 A Okay.

24 Q -- making baseline.

OFFICER EDDIE PAGAN

1 A Uh-huh.

2 Q All right. You somewhat already answered
3 this next question, but give a full answer all the
4 same.

5 In retrospect, looking back at the
6 incident, were there any opportunities not taken
7 that could have been taken to deescalate the
8 situation?

9 A No.

10 Q Okay. Looking back on the situation,
11 prior to Anthony's arrival at the house, could you
12 have taken any other approach to locate and
13 deescalate his intentions?

14 A No.

15 Q Okay. After Anthony's arrival, could you
16 have taken any different approach to deescalate the
17 situation but control it, other than the one you
18 took?

19 A What do you mean "but control it"?

20 Q Well, for example, one approach would have
21 been not to stop Anthony whatsoever, but that would
22 have ran the risk of Anthony going elsewhere?

23 A It would have created a lot more risk than
24 just going elsewhere.

OFFICER EDDIE PAGAN

1 Q Okay. So that's what I mean by
2 controlling the situation.

3 Were there any other techniques, any
4 other approaches you could have taken that would not
5 have allowed Anthony to leave the property, but
6 would not have caused you to approach Anthony
7 directly and put yourself at risk?

8 A There was no other -- there was no other
9 options at that time or in hindsight that would have
10 -- that would have gone any other way.

11 Q Okay.

12 A Just to clarify, we attempted to give
13 Anthony the option to leave the vehicle and come
14 inside the house, making it a different, complete
15 circumstance.

16 Q Meaning while you were still in the house,
17 you had the opportunity to wait, expect Anthony to
18 approach the house, and he choose to remain in his
19 vehicle at that time?

20 A Meaning we were trying to separate Anthony
21 from his vehicle to further reduce the risk of
22 anything happening on a mobile vehicle.

23 Q Understood. And your intention prior to
24 Anthony's arrival was for him -- tell me your

OFFICER EDDIE PAGAN

1 intention.

2 What was the intention?

3 A My intention was for him to not see us.

4 Q Right.

5 A Come into the house not knowing we're
6 there and detain him.

7 Q Okay. Did you and Officer Splain have any
8 discussion about whether to 302 him prior to his
9 arrival?

10 A Yes. When we were at the house, yes.

11 Q Was it your intention to perform a 302?

12 A My intention was to arrest him for the PFA
13 violation.

14 Q Okay.

15 A And at that point, he will get the help
16 needed.

17 Q Understood. Through the process?

18 A Exactly.

19 Q Understood, all right. I just want to
20 confirm, when you and/or Officer Splain got out of
21 the vehicle, the commends that were given consisted
22 of put your hands up, show me your hands, get out of
23 the vehicle, and/or get on the ground?

24 MS. LE: Objection to form.

OFFICER EDDIE PAGAN

1 THE WITNESS: My commands were, let me see
2 your hands.

3 BY MR. DIJACOMO:

4 Q And that's it from you?

5 A Yes.

6 Q Okay. You had never ordered him to get
7 out of the vehicle?

8 A No.

9 Q Okay.

10 A I have a process where -- where I go
11 before I get to that point.

12 Q Step one is --

13 A Let me see your hands.

14 Q And once you see a suspect's hands, then
15 you move on to the next step?

16 A Correct.

17 Q And thus, because you never saw his hands
18 up, you never moved on to the next step?

19 A The next step would be deescalation, let
20 me see your hands.

21 Q Okay.

22 A All right. Carefully, slowly, open the
23 window, open the car using your right hand, reaching
24 across to the door handle from the outside. It

OFFICER EDDIE PAGAN

1 crosses the person over, so that way it doesn't
2 allow him to, like, reach for the door, reach for
3 something else.

4 So it kind of binds up the person and
5 gives them -- puts them in a situation where I can
6 better see his movements as far as getting him out
7 of the vehicle safely. Let me see your hands, what
8 I just described. Open hand using your right hand
9 reaching across, open the door because now he has to
10 put himself in a formation where he's facing me,
11 open the door, slowly step out of the vehicle, turn
12 your back against me, walk towards the sound of my
13 voice, get on your left knee, get on your right knee
14 with your hands behind your back, and then the next
15 process will be me to approach and detain the person
16 using handcuffs. That's the deescalation process.
17 One of them.

18 Q All right. I think that's my last
19 question. There's an allegation in the complaint
20 that either you or Officer Splain made a statement
21 prior to leaving the house after -- presumably after
22 Anthony arrived to the extent of --

23 A After the whole incident?

24 Q No, no, no. Let me start over. Let me be

OFFICER EDDIE PAGAN

1 more broad. There's an allegation that there was a
2 statement made by either you or Officer Splain more
3 or less of, I hope we make it home to our families
4 tonight.

5 Do you recall such a statement?

6 A I make that statement every time either
7 myself or someone else is in a position where they
8 might be seriously hurt. You would have to clarify
9 who made that statement or where. Because I don't
10 -- I don't think I've said it. I believe Trooper
11 Splain said it, but that's just normal. We make it
12 home at the end of the day. It's just -- it means
13 nothing other than just be safe.

14 Q Yeah.

15 A Be safe on everything you do, whether it's
16 a traffic stop, whether it's removing a deer carcass
17 in the middle of an interstate where vehicles
18 traveling at a minimum speed of 75, make it home at
19 the end of the day. Don't get hit by a car. Think
20 things through. Be thorough. Be safe. That's all
21 it means.

22 Q Understood.

23 A It's a general statement -- it's a general
24 statement that encompasses a wide range of meanings.

OFFICER EDDIE PAGAN

1 MR. DIJIACOMO: Understood, all right.
2 All right, I don't have any further questions.
3 Thank you for your time today.

4 - - -

5 EXAMINATION

6 - - -

7 BY MS. LE:

8 Q I just have a couple questions.

9 Sir, did you have something you
10 wanted to say?

11 A No, I'll let you.

12 Q All right, okay. Officer Pagan, you
13 testified earlier that you -- regarding your
14 discussions with Trooper Splain prior to providing
15 the statement that you made on June 20th, 2017.
16 You -- I believe your testimony was that you had
17 discussed with him -- let me actually -- let me back
18 up.

19 Regarding your discussions with
20 Trooper Splain, you said, I believe you testified
21 that you had talked to the Trooper on the day of the
22 event and maybe the few days following the event; is
23 that accurate?

24 A Yes.

OFFICER EDDIE PAGAN

1 Q Okay. What was the nature of your
2 discussions with Trooper Splain?

3 A Like I explained earlier, we spoke a
4 little bit about the tactical and the safety
5 standards of our -- our actions during the scene,
6 how we did everything possible to keep ourselves
7 safe and minimize the situation, and thinking in
8 hindsight, I forgot to mention Trooper Splain had
9 been involved in a prior shooting in his career, and
10 most of the conversations revolved around him giving
11 me advice as to how to handle the stress, how not to
12 bring -- family life, how it's going to affect me in
13 the future, and how to go about myself and conduct
14 myself professionally throughout the whole ordeal in
15 that incident. So that's mostly what the
16 conversations went -- or consisted of.

17 Q Did you discuss with Trooper Splain during
18 any of these conversations the events of the
19 incident that occurred on May 20th, 2017, and by
20 that, I mean, did you and he discuss anything along
21 the lines of what do you remember happening, what do
22 I remember happening, do you remember him saying
23 this, do you remember me saying that?

24 Did you -- was your discussion with

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1 Trooper Splain anything along those lines?

2 A No. It was no questioning. There was no
3 doubting of our actions that day. So we didn't
4 speak in regards to, well, what did you hear? Did I
5 do the right thing? Or do you do the right -- do
6 you think I messed up? There was no doubt in our
7 minds. We weren't questioning our actions
8 whatsoever. It was more of him -- his advice, and
9 furthermore, there was a lot of uncertainties with
10 the district attorney's office and we were just more
11 or less wondering how that's going to affect us, how
12 long we're going to be on administration duty, how
13 long it's going to take for them to get us back on
14 the road, which is what we ultimately love doing.
15 We love our jobs. You know, we try to do it to the
16 best of our abilities, but that was pretty much it.

17 Q You also testified earlier regarding the
18 use of the MVR. At the time, you testified that you
19 have gained some knowledge about the MVR process
20 after -- following this event.

21 At the time of the incident, did you
22 believe that activating the MVR by use of the button
23 on your microphone on your lapel as you described
24 would activate the MVR in the same fashion as you

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1 turning on your overhead lights or using the button
2 on your steering wheel?

3 A Absolutely.

4 Q And you had activated your MVR in this
5 manner with the button on your microphone, I believe
6 you testified many times before?

7 A Correct.

8 Q Okay. You -- testified earlier that
9 having reviewed the MVR recording from your car for
10 this incident after the fact, that you do -- you are
11 aware that the MVR recording from your car starts
12 after the first shot was fired in this case; right?

13 A Yes.

14 Q Okay. Since after the incident, have you
15 come to gain any understanding as to why the
16 recording started after the first shot was fired?

17 A Yes.

18 Q Okay. And what did you learn after the
19 fact, just based on your understanding,
20 understanding you're not an MVR expert?

21 A Okay. Yeah, like she plainly stated, I'm
22 not an MVR expert. What I've come to learn is, when
23 you shut down your vehicle, your MVR automatically
24 starts a seconds countdown which equates to 30

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1 minutes. When we parked the car behind the
2 residence, we shut off our cars obviously for our
3 safety because we carry ammo and rifles and weapons
4 in our car. So the last thing we wanted to do was
5 for not only Mr. Ardo or anyone else to have access
6 to our vehicles and able to take our cars for a
7 joyride, or, you know, worse take one of our
8 weapons. So we shut off the cars. When we shut off
9 the cars and went inside the house, the 30 minutes
10 elapsed. Once the 30 minutes elapsed in the
11 countdown of the MVR, the MVR is completely shut
12 down. It's not recording after the fact or
13 anything.

14 When you turn it back on using the
15 key in the ignition manner, at that time, the MVR
16 has to reboot and there's a period of time where the
17 MVR has to reboot where nothing's being recorded no
18 matter what buttons or lights you press. You have
19 to wait for that rebooting process to complete its
20 course. And that's my understanding of how the MVR
21 works and that's my understanding as to why the
22 recording of the videos were after the first shots.

23 Q And that understanding that you just
24 described now, is something that you came to learn

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1 after this incident?

2 A Correct.

3 Q You did not understand that at the time?

4 A No.

5 Q And that rebooting process that you
6 describe, is that what you were referring to earlier
7 when you said it gets 60 seconds?

8 A Correct, the rebooting process.

9 MS. LE: I don't have any further
10 questions.

11 - - -

12 EXAMINATION

13 - - -

14 BY MR. DIJIACOMO:

15 Q Did the conversations you had with Trooper
16 Splain affect your testimony at all on June 20th,
17 2017?

18 A No.

19 MR. DIJIACOMO: Okay. Nothing further.

20 (Deposition ended at 12:31 p.m.)

21

22

23

24

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C E R T I F I C A T E

COMMONWEALTH OF PENNSYLVANIA :

: SS

COUNTY OF PHILADELPHIA :

I, ELIZABETH KELLY,
Professional Reporter - Notary Public, within and
for the Commonwealth of Pennsylvania, do hereby
certify that the proceedings, evidence, and
objections noted are contained fully and accurately
in the notes taken by me of the preceding
deposition, and that this copy is a correct
transcript of the same.

ELIZABETH KELLY

Professional Reporter

Notary Public

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INSTRUCTIONS TO THE WITNESS

1
2 Read your deposition over carefully.
3 It is your right to read your deposition and make
4 changes in form or substance. You should assign a
5 reason in the appropriate column on the errata
6 sheet for any change made.

7 After making any changes in form or
8 substance which have been noted on the following
9 errata sheet along with the reason for any change,
10 sign your name on the errata sheet and date it.

11 Then sign your deposition at the
12 end of your testimony in the space provided. You
13 are signing it subject to the changes you have
14 made in the errata sheet, which will be attached
15 to the deposition before filing. You must sign it
16 in front of a witness. Have the witness sign in
17 the space provided. The witness need not be a
18 notary public. Any competent adult may witness
19 your signature.

20 Return the original errata sheet to
21 your counsel promptly. Court rules require filing
22 within thirty days after you receive the
23 deposition.
24

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1 ERRATA SHEET

2 Attach to Deposition of: Officer Eddie Pagan

Taken on: August 22, 2019

3 In the matter of: Estate of Anthony Ardo v. Pagan, et al.

4 PAGE LINE NO. CHANGE REASON

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SIGNATURE PAGE

- - -

I hereby acknowledge that I have read the foregoing transcript, dated August 22, 2019, and the same is a true and correct transcription of the answers given by me to the questions propounded, except for the changes, if any, noted on the Errata Sheet.

- - -

SIGNATURE: _____

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DATE: _____

WITNESSED BY: _____

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EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -

ANGELO ARDO : CIVIL ACTION
and :
JEAN MONAGHAN, :
individually and as :
personal representative/ :
administrator of the :
estate of her son, ANTHONY :
ARDO, :

Plaintiffs, :

vs. :

OFFICER EDDIE PAGAN in his :
individual capacity as a :
Pennsylvania State Police :
Trooper :

and :

OFFICER JAY SPLAIN in his :
individual capacity as a :
Pennsylvania State Police :
Trooper, :

Defendants. : NO. 5:18-cv-05217-EGS

- - -

ORAL DEPOSITION OF OFFICER JAY SPLAIN
FRIDAY, AUGUST 23, 2019

- - -

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Oral deposition of OFFICER JAY SPLAIN,
taken at the Pennsylvania Office of Attorney General,
1600 Arch Street, Suite 300, Philadelphia,
Pennsylvania, on Friday, August 23, 2019, commencing
at 10:10 a.m., before Andrea M. Brinton, Certified
Court Reporter and Notary Public.

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OFFICER JAY SPLAIN

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E X H I B I T S

EXHIBIT NO.	DESCRIPTION	PAGE FIRST REFERENCED
Exhibit A	Pennsylvania State Police Rights Warning and Waiver and Trooper Jay Splain Interview	8
Exhibit B	Homicide Investigation Action Report	33

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OFFICER JAY SPLAIN

1 (By agreement of counsel, the sealing,
2 certification and filing are waived; and all
3 objections, except as to the form of the question,
4 are reserved until the time of trial.)

5 - - -

6 OFFICER JAY SPLAIN, after having been first
7 duly sworn, was examined and testified as follows:

8 - - -

9 EXAMINATION

10 - - -

11 BY MR. DiJIACOMO:

12 Q. Good morning, sir.

13 A. Good morning.

14 Q. Again, for the record, my name's Anthony
15 DiJiacomo. I represent the Estate of Anthony Ardo
16 and his parents, of course, in the lawsuit against
17 you and Officer Pagan.

18 Thank you for being here this morning.
19 I just want to go over a few, I guess, procedural
20 ground rules, if you would, to make sure things go
21 smoothly today.

22 A. Okay.

23 Q. As I ask you questions, in the same way you
24 did in your testimony before, just be sure you make

OFFICER JAY SPLAIN

1 your responses verbal. It's very natural to nod the
2 head or to give guttural responses at times, but just
3 for the record's sake, so we can make sure it's an
4 affirmative versus negative response, make sure
5 they're verbal; fair enough?

6 A. Got it.

7 Q. All right. I do not expect us to be here
8 long; likely, less than an hour, in fact.

9 With that said, if there's any point
10 in time where you need to take a break to use the
11 bathroom or talk to your attorney, just let me
12 know --

13 A. Okay.

14 Q. -- okay?

15 I may ask you to answer a pending
16 question first, but we'll play it by ear.

17 Do you understand that you're under
18 oath and it has the same weight or meaning as if you
19 were before a judge and a jury?

20 A. I do.

21 Q. Okay. And you're doing a fantastic job of
22 letting me get the full question out, and I'll try to
23 do the same for you as we go. If there's any point I
24 interrupt you and you need to respond further, just

OFFICER JAY SPLAIN

1 tell me; okay?

2 A. Okay.

3 Q. The most important thing today is not to
4 guess. If there's something you don't recall, just
5 tell me, because I appreciate it's been some time.

6 And then I guess the last thing I
7 should tell you is if there's a question I ask you,
8 and likely it will happen, that just doesn't make
9 sense or you don't understand it, just tell me and
10 I'll try and give you a better question; okay?

11 A. Got it. Yes.

12 Q. We will assume, though, that if you answer
13 a question, that you understood it; fair enough?

14 A. Fair.

15 Q. Okay. I understand that you gave a
16 deposition -- well, you gave a statement that was
17 transcribed and videotaped --

18 A. Yes.

19 Q. -- concerning the underlying incident on
20 June 16th, 2017.

21 A. Yes.

22 Q. And just to confirm the date, I'm going to
23 show you a document.

24 MR. DiJIACOMO: Let's mark it

OFFICER JAY SPLAIN

1 as Exhibit A.

2 (Exhibit A marked for
3 identification.)

4 BY MR. DiJIACOMO:

5 Q. The transcript that I'm referencing, that's
6 marked as Exhibit A, do you recall giving this
7 statement?

8 A. I do.

9 Q. Okay. And I'll say it's extremely
10 detailed, and I appreciate that. It will make today
11 much quicker.

12 Is the statement that you provided on
13 June 16th, 2017 accurate and truthful?

14 A. Yes.

15 Q. Okay. Were any statements therein given
16 accurate, but with any intent to mislead?

17 A. No.

18 Q. Okay. The statement that you gave on June
19 16th, 2017 was approximately 27 days or so after the
20 incident; correct?

21 A. Correct.

22 Q. And when I say incident, we both understand
23 I'm referring to the May 20th, 2017 police
24 shooting --

OFFICER JAY SPLAIN

1 A. Correct.

2 Q. -- involving Anthony Ardo?

3 A. Yes.

4 Q. Okay. First, do you have an understanding
5 as to why there was such a length of time between the
6 incident and your transcript -- and your statement?

7 A. Well, that was the first time that I had
8 been asked to provide a statement, and as far as -- I
9 can only guess why it took that long --

10 Q. Don't guess.

11 A. -- so I'm not going to guess.

12 Q. That's perfect.

13 But the first time the homicide
14 investigative officers reached out to you to schedule
15 a statement was for that date?

16 A. Correct.

17 Q. Understood.

18 Okay. Between the time of the
19 incident and your statement, did you have any
20 discussions with Trooper Pagan concerning the events
21 of the underlying incident?

22 A. Yes, only in generalities, though.

23 Q. How so?

24 A. Well, we discussed, you know -- I just

OFFICER JAY SPLAIN

1 wanted to -- I would reassure him that, you know,
2 hey, we did everything by procedure, by policy, you
3 know, you don't have anything to worry about; and I
4 wanted to reassure him, you know, that he did a good
5 job at the scene, you know, the way he handled
6 himself.

7 I explained to him how the process
8 works, and -- but my main goal was to not get too
9 much into the details of the incident itself, because
10 I wanted to preserve the integrity of the
11 investigation.

12 Q. Okay. For context, you were involved in a
13 police shooting prior to this incident; correct?

14 A. Correct.

15 Q. And to your understanding, Trooper Pagan
16 was not ever prior involved in a police shooting.

17 A. That's correct.

18 Q. Okay. So to the extent that you were
19 giving advice or discussing the incident, it's your
20 testimony that it concerned general guidance
21 concerning the process and how to deal with it.

22 A. Yes.

23 Q. Okay. Was there any discussion about
24 comparing recollections of the incident?

OFFICER JAY SPLAIN

1 A. I know just initially the only thing I
2 really remember was the day that it happened, the day
3 of the incident, he -- initially he didn't remember
4 if he fired or not, and I told him, I'm like, no, I'm
5 pretty sure you fired.

6 But other than that difference in
7 recollection, I don't recall anything else
8 discussion-wise we had about specifics of differences
9 of recollections.

10 That was the -- that was the main
11 thing, is just he's like -- he's like, I -- I fired?
12 You know, did I shoot? And I was, like, yeah. But
13 other than that, we didn't -- that was about as
14 specific as it got.

15 Q. Okay. Did you have any discussion
16 concerning or confirming whether the other had seen
17 Anthony Ardo ignite the lighter?

18 A. Not -- no, not that I recall.

19 Q. Okay. All right. In advance to providing
20 your statement on June 16th, did you review any type
21 of evidence?

22 A. Yes.

23 Q. All right. What was that?

24 A. The MVR recording.

OFFICER JAY SPLAIN

1 Q. And just to make sure we're on the same
2 page, the MVR recording is the video footage from the
3 vehicles?

4 A. Yes.

5 Q. Okay. Who provided you, to your
6 understanding, authorization to view the video?

7 A. I want to say it was probably the criminal
8 unit supervisor at the station, which would have been
9 Corporal Blair Talijan, but he might have -- and I'm
10 guessing here. I'm assuming he would have had to
11 have -- had to get the station commander, which would
12 have been Sergeant O'Malley, he probably would have
13 gotten his permission just to make sure that he -- it
14 was all right with him.

15 But, again, I don't know who actually,
16 if you want to say, signed off on it or approved it,
17 I just know that I asked if I would be able to review
18 it before providing my statement.

19 Q. Okay. For context, O'Malley is the --
20 forgive me for terms, but he's in charge of the
21 Belfast barracks?

22 A. Yes, he -- he was -- let's see. By the
23 time -- the date of the incident, he was not. The
24 current station commander, which would have been

OFFICER JAY SPLAIN

1 Sergeant Joseph Sparich, he was on his way out, he
2 was transferring -- promoting out, and then -- but we
3 did know at that time that Sergeant O'Malley was
4 going to be the one moving in to -- taking over
5 Sergeant Sparich's position as station commander.

6 And then I think -- I'm pretty sure by
7 then -- by the time that I did give my statement in
8 June, Sergeant O'Malley was there as the station
9 commander. So, yeah, it should have been Sergeant
10 O'Malley.

11 Q. Understood.

12 Do I understand correctly that you
13 requested -- you personally requested to view the MVR
14 footage?

15 A. Yes.

16 MS. LE: Objection to form.

17 If I object to form, you can
18 ignore me and answer the question if you
19 understand.

20 BY MR. DiJIACOMO:

21 Q. For the record, I just wanted to make sure
22 you had context.

23 What was the purpose of you viewing
24 the MVR footage in advance of this statement?

OFFICER JAY SPLAIN

1 A. My purpose I wanted to see the footage in
2 advance to give my statement was because there had
3 been -- you know, it was about a month time that had
4 elapsed and -- since the incident, and I just wanted
5 to make sure that before I gave my official statement
6 in a homicide investigation, that my memory was
7 serving me correctly and matched up with the MVR.

8 And, you know, that's -- I didn't want
9 there to be any surprises or lapse in memory on my
10 part that would make me look like I was giving a
11 false statement, you know, falsely remembering things
12 or anything like that.

13 Q. In your June 17th, 2017 statement, you made
14 a note that after viewing the MVR footage, you had
15 realized you had shot six shots, as opposed to your
16 memory serving you as four or five.

17 A. Yes.

18 Q. Besides that -- besides that, were there
19 any other -- did the MVR footage help you recall any
20 other facts that you wouldn't have otherwise?

21 A. No. Reviewing the MVR footage then just
22 reaffirmed that my memory of the event was solid and
23 it did match up.

24 But there's no surprises after

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1 reviewing the MVR footage that made me go, oh, wow, I
2 forgot about that. There's nothing like that.

3 Q. All right. Understood.

4 All right. I just want to go through
5 pieces of the incident just for clarification,
6 because I need it. Again, I appreciate the statement
7 you gave before.

8 Did you -- did you personally hear
9 Anthony, during the various phone calls between
10 Anthony and his mother, make any statement concerning
11 a gun?

12 A. Yes.

13 Q. Okay. Which -- during which phone call --
14 let me back up.

15 How many phone calls did you hear?

16 A. I believe it was three.

17 Q. Okay.

18 A. Yeah.

19 Q. So you were present for all three phone
20 calls?

21 A. Yes.

22 Q. Okay. Understood.

23 To your recollection, did Anthony
24 mention a gun in more than one phone call?

OFFICER JAY SPLAIN

1 A. The mention of the gun was just during the
2 first phone call between him and his mother right
3 after I had arrived at the residence.

4 Q. And what's your recollection of the
5 statement he made at the time?

6 A. He had said that -- he had said something
7 to the effect that he could get a gun by tomorrow and
8 he would just blow his head off.

9 Q. Did Anthony give a time frame, do you
10 remember?

11 MS. LE: Objection to form.

12 THE WITNESS: Yeah, I'm pretty
13 certain that I remember him saying "by
14 tomorrow."

15 BY MR. DiJIACOMO:

16 Q. Okay. Okay. Understood.

17 During those three phone calls, what
18 do you recall Anthony saying about a bomb?

19 A. He had said that he would have a -- a bomb
20 strapped around his neck loaded with nails, and that
21 if -- if his mom was tricking him or if this was some
22 sort of ruse to get him to come to the house, he
23 would blow himself up and make her watch, and if
24 there was any police presence, he would blow himself

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1 up.

2 Q. Did you overhear Anthony make any threat to
3 blowing up others, in addition to himself, if it was
4 a ruse?

5 A. No, he never specifically mentioned anyone
6 else.

7 Q. Okay. All right. So over the phone calls,
8 the threats that you heard concerning a gun and a
9 bomb were all threats of self harm?

10 A. I'd like to argue that when he mentioned
11 the nail bomb, that at that point, you know, that's
12 what set off the biggest red flag in my mind, was
13 that, you know, a nail bomb is not a weapon that's
14 intended to hurt just one person. In this case, it
15 would have been just Anthony.

16 That's something that's designed
17 purposefully to create mass casualty, based on, you
18 know, the nails being shrapnel, just flying
19 360 degrees and don't care who or what they hit,
20 so --

21 Q. Understood. Okay. So -- understood.

22 Okay. My understanding is that after
23 the third phone call in which Anthony explicitly made
24 the threat of a bomb including the nails, you had

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1 radioed back to the station stating the same.

2 A. Yes.

3 Q. My understanding, though, is at that point,
4 there wasn't any request for assistance; is that
5 accurate?

6 A. That's correct.

7 Q. Okay. Why not?

8 A. There was only four of us working at that
9 point. Two of us were -- myself and Trooper Pagan
10 were already tied up with this incident, we had no
11 one else that was anywhere close, there were still
12 other police calls -- calls for police service
13 currently happening at that time, and I felt like
14 Trooper Pagan and I had the situation under control
15 at that point.

16 I mean, if I would have thought at
17 that point that we needed more assistance, I would
18 have certainly asked for it.

19 Q. Did you think that the threat of the bomb
20 was, for lack of a better term, serious?

21 No, let me rephrase that. I don't
22 like that word. Legitimate.

23 A. At the point where I heard Anthony saying
24 it, I remember thinking to myself, I'm hoping that

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1 he's just blowing smoke and just trying to terrorize
2 his mom, but then once the conversation with his
3 mother ended, then I immediately asked her if she had
4 any knowledge of him ever playing with explosives or
5 setting off pipe bombs or building bombs or anything
6 like that, and the look of concern that was on her
7 face after I asked her that and her hesitation before
8 answering the question, in which she did finally say,
9 well, he does play with fireworks a lot, that's
10 when -- it was at that point that I was like, this --
11 I'm going to have to take this as a legitimate bomb
12 threat until proven otherwise.

13 Q. But you didn't call for any type of bomb
14 squad, EMT or other type of backup.

15 A. No, because we had no idea where the bomb
16 or Anthony was at at that point, so calling somebody
17 there at that point is -- they're going to -- they're
18 going to ask, okay, well, where's it at? And I'm
19 going to say, I don't know yet. And they're going to
20 say, okay, once you have a location, then call us
21 back.

22 Q. Is there value, in your opinion, to calling
23 and putting them on standby? And I realize I'm
24 asking 20/20 questions, all right, backward-looking,

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1 I appreciate that.

2 A. No, because it's not really going to change
3 the facts and circumstances that we had right there
4 at that moment in time.

5 You know, it's something that, you
6 know, if they're needed, you call them as soon as you
7 definitely know that they're needed, and at that
8 point, we didn't have a definite need for them, so --

9 Q. Okay. In the course of your career, have
10 you ever had to deal with a bomb, an actual bomb
11 threat, other than with Anthony Ardo?

12 A. Let me think. I think there was a bomb
13 threat at one of the schools, yeah. Yeah, but that
14 was the only -- that's the only thing that comes to
15 recollection right now as far as a bomb threat.

16 Q. Were you involved in responding to that?

17 A. Yes.

18 Q. Again, forgive me for lack of good terms,
19 but were you one of the officers in charge of
20 responding to that?

21 A. No.

22 MS. LE: Object to form.

23 BY MR. DiJIACOMO:

24 Q. Okay. A supporting officer, then?

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1 A. Yes.

2 Q. Okay. In the situation we're discussing,
3 was any type of bomb specialist called in?

4 A. You're referring to the school bomb threat?

5 Q. The school bomb, yes.

6 A. I -- I don't recall. I know I don't
7 remember ever seeing any of the bomb -- our bomb
8 technicians at that call, but, you know, I don't know
9 if they were called and placed on standby or
10 anything. I don't know. I don't have that
11 information, sorry.

12 Q. Understood. Final follow-up question about
13 that. In the school bomb threat situation -- nix it.
14 Never mind.

15 I'm jumping around. There was a point
16 in time after Anthony was shot in which you opened
17 the door and pulled Anthony out.

18 Do you have a memory, from those
19 observations during that time period, of how the bomb
20 was attached to Anthony?

21 A. Yes.

22 Q. How so?

23 A. He had a -- there's a hole in the -- just
24 underneath the collar of the shirt he was wearing.

OFFICER JAY SPLAIN

1 It was like a waffle knit, like a thermal, like a
2 long john --

3 Q. Okay.

4 A. -- type material shirt, long-sleeved, and,
5 you know, there was a hole just underneath the
6 collar, right in the front center.

7 And the fuse was passed through the
8 hole and then, like, tied in the -- I don't know if
9 it was a knot or just, like, a once -- like, a
10 crossover on itself and pulled so that it was -- it
11 was affixed to his shirt collar.

12 Q. If I understand you correctly, the bomb was
13 underneath the shirt, then?

14 A. No, it was --

15 MS. LE: Object to form.

16 THE WITNESS: It was exposed on
17 the outside of his shirt.

18 BY MR. DiJIACOMO:

19 Q. So the fuse, if I understand correctly,
20 went from the bomb, through the shirt and then back
21 out?

22 A. Yes.

23 Q. Okay. Okay. I'm not going to ask you to
24 walk through the shooting, I'm just going to be a

OFFICER JAY SPLAIN

1 little more pointed to get to the point.

2 There's a point in time where you
3 shoot the initial six shots; correct?

4 A. Correct.

5 Q. And it was in response to -- well, instead
6 of me putting words in your mouth, what was it in
7 response to?

8 Why did you shoot the first six shots?

9 A. Because Anthony attempted to light the --
10 the bomb.

11 Q. And you were able to see the lighter;
12 correct?

13 A. Yes.

14 Q. And --

15 A. Well, no, let me --

16 Q. Go ahead, please.

17 A. I didn't see the lighter, I saw the
18 flame --

19 Q. Okay.

20 A. -- emitting from his clenched fist.

21 Q. Okay. Were you able to see the flame or
22 illumination?

23 A. I saw the flame.

24 Q. Okay. Were you able to see the fuse?

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1 A. No, not from where I was standing.

2 Q. Okay. But based on the prior threat,
3 Officer Pagan's eyes responding and the response of
4 yes to your question of is there something there, or
5 something along those lines, you had a fear that the
6 flame was lighting a fuse.

7 A. Yes.

8 Q. Okay. And, thus, you took the six shots.

9 A. Yes.

10 Q. All right. And I have understanding of why
11 six, so we won't go there.

12 What I want to understand is the
13 thought process from after the first six shots to
14 including why the following three shots were taken.
15 So walk me through that part.

16 A. At that point, after the first six shots,
17 Anthony had -- had disappeared from my line of sight.
18 I had no idea at that point whether any of my first
19 six shots had struck him or incapacitated him, and so
20 I was beginning to approach the car to get closer to
21 try and get a visual on Anthony, and it was at that
22 point that he immediately, what I perceived to be
23 aggressively, sat straight back up like there was
24 nothing wrong with him.

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1 He didn't have his hands up in the
2 air, he didn't -- there was no statements from him,
3 about all right, all right, I give up, and so at that
4 point, he was still just as much of a threat, because
5 I still could not see his hands, and that's why I was
6 still in very much fear of my life and being blown up
7 that I took the follow-up three shots.

8 Q. When -- let me just go through that.

9 When Anthony Ardo fell out of sight,
10 am I correct in understanding that he was sitting up
11 and then went to his right, towards the passenger's
12 seat?

13 A. Yes.

14 Q. And then came back up?

15 A. Yes.

16 Q. Okay. When Anthony came back up, did you
17 see his hands?

18 A. No.

19 Q. Okay. At any point in time did you see a
20 gun, Anthony possess a gun?

21 A. No.

22 Q. At any point in time did you see Anthony
23 possess anything that made you think he had a gun?

24 A. No.

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1 Q. Okay. Between the six shots and the three
2 shots, did you see any flame or illumination inside
3 the vehicle?

4 A. No.

5 Q. Okay. Between the six shots and the three
6 shots, did you give any verbal commands?

7 A. I don't recall. I don't even know if I had
8 time to, it happened so quick. I don't remember if I
9 gave him any commands in that brief period or not.

10 Q. I'll represent to you that from watching
11 the footage, I did not see or hear any commands in
12 between those three -- between the six and the three.

13 To the extent you're willing to accept
14 that, why didn't you give any commands after you saw
15 Anthony go down and come back up?

16 A. At that point I was still so concerned that
17 I couldn't see him and I didn't know what he was --
18 what he was doing inside the vehicle, that I just --
19 I -- I guess I didn't think about trying to give him
20 commands.

21 I was just trying, as quickly as
22 possible, get eyes on him to try to determine what
23 the level of threat still was at that point.

24 And, also, my mind was pretty

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1 preoccupied at that point with thinking, holy crap,
2 you know, I'm -- I was just waiting for the boom and
3 the flash and, you know, for it to all be over, and I
4 was -- that was -- that's what was going through my
5 mind, for the most part, at that point. So I might
6 not have thought to give him more commands, other
7 than the -- you know, after the initial ones I had
8 given him.

9 I think I was also, looking back at it
10 now, probably thinking that, you know, he knows now
11 that, you know, we're not -- we're not kidding around
12 here. You know, he should be thinking, holy shit,
13 the police just shot at me multiple times.

14 You know, any reasonable person at
15 that point is going to either stay down and say -- at
16 least just take cover or at least say, you know, all
17 right, I give up, I give up, don't shoot, you know,
18 something to that effect. You know, with there being
19 none of that, I just -- he was still a threat.

20 Q. Prior to the final three shots -- let me
21 just confirm.

22 Well, your position, we can see it on
23 the video, but we can't see exactly your perspective.

24 A. Uh-huh.

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1 Q. The instant prior -- or, I guess, really,
2 at any point between the six shots and the three
3 shots, were you able to see Anthony Ardo's face?

4 A. No.

5 Q. Okay. We know you weren't able to see his
6 hands; right?

7 A. Correct.

8 Q. Okay. Were you looking, essentially, over
9 Anthony's left shoulder?

10 A. At exactly which point in time are we
11 talking about?

12 Q. The instant -- yeah, thank you.

13 The instant before the three shots,
14 what angle, I guess, essentially, did you have of
15 Anthony?

16 A. I believe at that point I had initially
17 started to side-step to my right. I was going to
18 make an approach to the passenger's side of the car
19 then, but then I think I only took, like, one, maybe
20 two steps, and then it hit me, hey, if I end up
21 putting myself on the passenger's side of the car,
22 I'm going to be putting myself in a crossfire
23 situation with Trooper Pagan's current position.

24 So then I reversed myself and decided

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1 to just approach on the driver's side. It was -- you
2 know, I only had enough time to take those, like, one
3 or two steps and then come back, and that's when he
4 popped right back up and I fired the three shots.

5 Q. Okay. All right.

6 A. So, sorry, maybe I didn't quite answer your
7 question about looking over his left shoulder.

8 That was your question; correct?

9 Q. More or less, yes.

10 A. You know, I mean, I would say I was on an
11 angle, you know, between -- it would have been
12 between, like, directly behind him and just slightly
13 offset to his -- what would have been his left side,
14 so --

15 Q. Okay. All right. I appreciate the fear of
16 the bomb through this incident, but did you also --
17 did you have any fear of him having a gun on him?

18 A. Yes, that was in the back of my mind as
19 well.

20 Q. Okay. All right. I believe in your
21 statement you had said while you were waiting in the
22 house for Anthony to arrive, you were running through
23 various scenarios.

24 A. Yes.

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1 Q. Okay. And at that point in time, your
2 intent was for Anthony to come into the house, and
3 then approach and stop him inside the house.

4 A. Yes.

5 Q. Okay. While you were waiting and running
6 through the scenarios, did you run through scenarios
7 to the extent Anthony didn't exit his vehicle?

8 A. I want to say I don't specifically recall
9 that scenario, but knowing how I think and Officer
10 Pagan thinks, I'm -- I can say with pretty good
11 certainty that I'm sure that was one of the
12 possibilities we discussed.

13 Q. When you had parked your vehicles, I think
14 there was an acknowledgment or a discussion about
15 parking them end-to-end in case you had to pull out
16 quickly.

17 A. Yes, back-to-back.

18 Q. Back-to-back, yes.

19 And that was for the purpose if
20 Anthony decided to, more or less, make a run for it.

21 MS. LE: Object to form.

22 THE WITNESS: That was for
23 if -- for any reason if we needed to get
24 out of there as quickly as possible, that

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1 was the most tactically sound way to park
2 the vehicles.

3 BY MR. DiJIACOMO:

4 Q. Okay. What I'm leading up to, more or
5 less, is did you have considerations of alternative
6 approaches to controlling Anthony, other than
7 bringing your vehicles and stopping his vehicle, to
8 the extent Anthony didn't leave his vehicle?

9 MS. LE: Objection to form.

10 BY MR. DiJIACOMO:

11 Q. I can restate that if it's confusing.

12 A. Yeah, if you don't mind, please.

13 Q. While running through the scenarios or in
14 preparation of Anthony's arrival, to the extent you
15 considered the possibility that Anthony would not
16 exit his vehicle, did you consider any alternative
17 approaches to what you did?

18 A. Not that I recall.

19 Q. Okay. Did you have concern in waiting for
20 Anthony to arrive, that if he didn't get out of his
21 vehicle and you had to stop him, you would be putting
22 yourself within a range of the bomb?

23 A. Yes, that's a -- that was a concern.

24 Q. Did you consider any alternatives to avoid

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1 that concern?

2 A. No, I didn't -- at the time, I didn't
3 really see any other way around it, and my greater
4 concern at that point, too, was that if he did have a
5 bomb and went mobile, you know, there was a -- the
6 town of Bangor is very close by, and my concern is
7 keeping the situation as contained as possible to
8 that rural area around the residence, where there
9 would be less likelihood of innocent casualties -- or
10 civilian casualties.

11 So, yeah, no, my main focus was
12 keeping him in that location.

13 Q. Okay. Based on your experience, your
14 training, were there any alternative -- any type of
15 de-escalation techniques that you could have used,
16 but didn't, in trying to calm down Anthony before you
17 approached?

18 A. There are de-escalation techniques, but in
19 my opinion, based on how rapidly the situation was
20 evolving and Anthony's choices, we didn't have an
21 opportunity to try and have a discussion with him.

22 That was initially where I thought it
23 was going when we had him at gunpoint, were giving
24 him simple commands, he's not obeying them. I'm

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1 like, okay. I'm thinking, all right, we're going to
2 have a barricade subject in the vehicle and it's
3 going to be, like, a standoff, but before I could
4 even finish processing those thoughts is when the
5 lighter came into play, and that was the
6 game-changer, so --

7 Q. Okay. All right. Let's see here. I just
8 want to show you one document and then we'll wrap it
9 up.

10 MR. DiJIACOMO: Can we mark
11 this as Exhibit B.

12 (Exhibit B marked for
13 identification.)

14 BY MR. DiJIACOMO:

15 Q. And, sir, first, I'll represent to you that
16 this was a document that was exchanged during the
17 course of discovery. For the record, it's marked as
18 Defendant 77, and I think it speaks for itself, but I
19 will tell you it was part of the homicide
20 investigation report.

21 Have you ever seen this document
22 before?

23 A. No.

24 Q. Okay. Would you just read through it for a

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1 moment.

2 A. Sure.

3 Q. Tell me when you're done.

4 A. Okay.

5 Q. I understand you didn't see this document
6 before. Were you generally aware of the findings
7 therein?

8 A. Yes.

9 Q. Okay. Do you have any reason to dispute
10 those findings?

11 A. No.

12 Q. Okay. Based on your observations of
13 Anthony's movements, did you form an opinion or do
14 you have an opinion as to the three shots that hit
15 Anthony, whether they were within the first six shots
16 that were shot or the final three shots?

17 MS. LE: Objection to form.

18 THE WITNESS: So just to make
19 sure I understand your question, you're
20 asking if, based on my knowledge at that
21 time of the incident, in the moment --

22 BY MR. DiJIACOMO:

23 Q. No.

24 A. Okay.

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1 Q. Sitting here today --

2 A. Okay.

3 Q. -- considering what you know here today --

4 A. Yes.

5 Q. -- knowing Anthony went down and came back
6 up, your observations of how Anthony reacted after
7 the final three shots, your observations of pulling
8 Anthony out, is it fair to say that the final three
9 shots were the three shots that penetrated Anthony
10 Ardo?

11 MS. LE: Objection to form.

12 THE WITNESS: Yeah, I don't --
13 I don't feel that I can answer that based
14 on -- I have -- I have -- I have no
15 idea -- no way of knowing which one of my
16 rounds, at which point, struck him.

17 All I know is that rounds that
18 I fired did strike him, whether it was
19 during the first six or the second three.

20 I do know that during the last
21 three rounds that I fired, I remember
22 do -- I do remember seeing him kind of
23 slump down then and remain motionless at
24 that point. So at that point I could

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1 only -- I assumed that at least one of
2 those three rounds had struck him.

3 BY MR. DiJIACOMO:

4 Q. But whether or not one of the first six
5 struck him, you couldn't tell?

6 A. Yes, that I have no idea.

7 MR. DiJIACOMO: Understood.

8 All right. All right. I do
9 not have any further questions at this
10 point.

11 MS. LE: I have no questions.

12 MR. DiJIACOMO: All right.

13 Thank you, sir. I appreciate you coming
14 in today.

15 (Deposition concluded at
16 10:52 a.m.)

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1 CERTIFICATION

2 - - -

3 I hereby certify that the testimony and the
4 proceedings in the foregoing matter are contained
5 fully and accurately in the stenographic notes taken
6 by me, and that the copy is a true and correct
7 transcript of the same.

8
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13 -----
14 Andrea M. Brinton, Certified
15 Court Reporter and Notary Public
16
17
18

19 The foregoing certification does not apply
20 to any reproduction of the same by any means, unless
21 under the direct control and/or supervision of the
22 certifying reporter.
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24

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1 INSTRUCTIONS TO WITNESS FOR READING & SIGNING

2 Read your deposition over carefully. It is
3 your right to read your deposition and make changes
4 in form or substance. You should assign a reason in
5 the appropriate column on the errata sheet for any
6 change made.

7 After making any changes in form or substance
8 which have been noted on the following errata sheet
9 along with the reason for any change, sign your name
10 on the errata sheet and date it.

11 Then sign your deposition at the end of your
12 testimony in the space provided. You are signing it
13 subject to the changes you have made in the errata
14 sheet, which will be attached to the deposition
15 before filing. You must sign it in front of a
16 witness. Have the witness sign in the space
17 provided. The witness need not be a notary public.
18 Any competent adult may witness your signature.

19 Return the original errata sheet to your
20 counsel promptly. Court rules require filing within
21 30 days after you receive the deposition. Counsel is
22 asked to send a copy of the errata sheet to Summit
23 Court Reporting for our records.
24

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Attach to Deposition of: OFFICER JAY SPLAIN

Taken on: August 23, 2019

In the Matter of: Angelo Ardo, et al. vs. Officer
Eddie Pagan, et al.

[illegible]

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SIGNATURE PAGE

- - -

I hereby acknowledge that I have
read the foregoing transcript, dated August 23,
2019, and the same is a true and correct
transcription of the answers given by me to the
questions propounded, except for the changes, if any,
noted on the errata sheet.

- - -

SIGNATURE: -----
OFFICER JAY SPLAIN

DATE: -----

WITNESSED BY: -----

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EXHIBIT 3

Jean Monaghan
September 17, 2019

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELO ARDO, et al.	:	
	:	CIVIL ACTION
Plaintiff	:	
	:	NO. 18-5217
-VS-	:	
	:	
OFFICER EDDIE PAGAN, et al.	:	
	:	
Defendant	:	

* * * * *

TUESDAY, SEPTEMBER 17, 2019

* * * * *

Oral deposition of JEAN MONAGHAN, was taken at the Office of Attorney General, 1600 Arch Street, Philadelphia, Pennsylvania, before Renee Schumann, a Notary Public of the State of New Jersey and Notary Public of the Commonwealth of Pennsylvania, on the above date, commencing at 10:50 a.m.

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September 17, 2019

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Representing the Defendants

Jean Monaghan
September 17, 2019

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I N D E X

WITNESS

PAGE

JEAN MONAGHAN,

(Witness Sworn.)

DIRECT EXAMINATION BY MS. LE

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E X H I B I T S

NUMBER

DESCRIPTION

PAGE

Exhibit-1

Interview

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(Exhibit attached to the transcript.)

REQUESTS FOR PRODUCTION:

BY MS. LE: Page 67 Line 21

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* * * * *

(It is agreed by and between counsel
that reading, signing, sealing, filing, and
certification are hereby waived and all
objections, except as to the form of the
questions, are reserved until the time of
trial.)

* * * * *

JEAN MONAGHAN, having been duly sworn
according to law, was examined and testified
as follows:

* * * * *

DIRECT EXAMINATION

* * * * *

BY MS. LE:

Q. Ms. Monaghan, I'll introduce myself for
the record, even though we met outside. My name is
Kathy Le, I am with the Commonwealth Office of
Attorney General. I'm representing the defendants in
this case, Troopers Splain and Pagan. This is a
lawsuit that you have brought on behalf of the Estate
of your son, Anthony Ardo; is that right?

A. Uh-huh, yes.

Q. Ms. Monaghan, have you ever been

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1 subject to a deposition before?

2 A. Never.

3 Q. Okay. So I'll give you a few ground
4 rules and instructions as to how a deposition goes.
5 So I will be today asking you a series of questions
6 and I ask that you allow me to fully complete my
7 question before you start your answer. It's very
8 natural in a conversation to anticipate what the rest
9 of my sentence is and start answering, but for the
10 sake of the record the court reporter who is here
11 taking down everything we say, I ask that you allow
12 me to fully complete my question before you start
13 your answer and I will do the same for you.

14 Do you understand?

15 A. Yes.

16 Q. I also ask you again for the sake of
17 the record to answer all of my questions audibly
18 versus a nod of the head. If your answer is yes, so
19 you actually say yes versus uh-huh or some other type
20 of guttural reaction.

21 Do you understand that?

22 A. Yes.

23 Q. I don't anticipate that we are going to
24 be here very long today, but if at any time you need

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1 a break, I'll be happy to give you one. I only ask
2 that you complete whatever my last question was
3 before we take a break.

4 Do you understand?

5 A. Yes.

6 Q. If at any time you don't understand one
7 of my questions because it's poorly worded or it's
8 confusing, feel free to ask me to rephrase it, and if
9 you answer my question I will assume that you
10 understood it.

11 Do you understand that?

12 A. Yes.

13 Q. Okay. So, Ms. Monaghan, you were of
14 course -- you contacted the State Police on May 20,
15 2017 in relation to your son, Mr. Ardo; is that
16 right?

17 A. Yes.

18 Q. And what was your purpose for
19 contacting the State Police on that date?

20 A. He was in a bad way and I was just
21 trying to get him help.

22 Q. And you spoke to an individual, I don't
23 know if you remember his name, PCO Bailer a couple of
24 times in the morning of May 20, 2017. Do you recall

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1 that?

2 A. If that was the State Police barracks,
3 then yes, I did.

4 Q. Okay. We have recordings of the call
5 that you made with PCO Bailer, so I'm not going to
6 ask you to go over that. Was your intention in
7 calling that day to try to have the State Police I
8 believe you said pick him up and get him some help?

9 A. Yes.

10 Q. And the State Police did send out two
11 state troopers to your house; is that right?

12 A. Yes.

13 Q. And that would be Trooper Splain and
14 Pagan?

15 A. Yes.

16 Q. Following the incident on that date,
17 you gave a statement to the State Police
18 investigator; is that right?

19 A. Yes.

20 Q. Was that an individual named Mr. Everk?

21 A. Yes. I believe he was with the State
22 Police in Bethlehem; is that correct?

23 Q. Yes, that is my understanding.

24 There was also, to my knowledge,

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1 another State Police individual during that interview
2 present. Do you recall that, there were two State
3 Police individuals present for your interview?

4 A. I don't remember that, I only remember
5 the one.

6 Q. During of the course of this
7 litigation, defendant produced to your counsel a
8 large number of documents, part of which included the
9 transcript of your interview with Trooper Everk on
10 the day of the incident, May 20, 2017.

11 Did your counsel show that transcript
12 to you prior to your deposition today?

13 A. No.

14 Q. Okay. Did you meet with -- and I don't
15 want to know the nature of your conversation, but did
16 you meet with your counsel to prepare for this
17 deposition today?

18 A. Yes.

19 Q. And, again, without revealing the
20 content of those conversations, did your counsel show
21 you any documents in order to prepare for the
22 deposition today?

23 A. No.

24 Q. Did you ask to see that -- the

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1 transcript of your interview with the State Police
2 from May 20th?

3 A. No.

4 Q. Okay. At any time prior to today, have
5 you seen a copy of the transcript from your interview
6 with the State Police on May 20th?

7 A. I chose not to, no.

8 Q. Okay. Why did you choose not to see
9 that?

10 A. I understood it to be very graphic and
11 it's very difficult to relive.

12 Q. I understand. Understanding that you
13 have not seen the transcript and I understand why,
14 between then, May 20, 2017 and now, are there things
15 that you believe you want to correct from the
16 statement that you gave the State Police on that
17 date?

18 A. Not that I'm aware of.

19 Q. Okay. In addition to the statement
20 that you gave the State Police on May 20, 2017, did
21 you also provide testimony to a grand jury in
22 relation to the incident?

23 A. Yes, I did.

24 Q. Do you believe -- again, understanding

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1 you never looked at the transcript of that
2 interview --

3 A. Yes.

4 Q. -- do you believe the testimony that
5 you gave to the grand jury is consistent with the
6 testimony that you gave in your interview with the
7 State Police?

8 A. Yes.

9 Q. Did you -- are you aware that at the
10 start of this lawsuit, to kickoff this lawsuit, a
11 document called a complaint was filed with the court
12 which lays out your allegations against the troopers
13 in this case?

14 A. Yes.

15 Q. Okay. Did you -- that document was
16 filed by your lawyers, correct?

17 A. I believe so.

18 Q. Did you assist your lawyers in setting
19 out the allegations, the factual allegations in that
20 complaint? Let's rephrase.

21 Let me ask you this: Did you have any
22 opportunity to review the allegations in that
23 complaint before it was filed?

24 A. No.

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1 Q. To your knowledge, were the allegations
2 in that complaint based on information that you gave
3 them as to what happened?

4 A. I would assume so.

5 Q. I just want to ask you about one of the
6 specific allegations in that complaint. In that
7 complaint, paragraph 26, it states that the troopers,
8 I'll quote, "hitting him," meaning your son, "six
9 times which plaintiff Monaghan witnessed."

10 Do you recall that you witnessed the
11 state troopers actually firing shots at your son?

12 A. Oh, firing shots, yes, I was at the
13 window, yes.

14 Q. According to your statement to the
15 State Police on May 20, 2017, you said that you
16 turned away from the window because you didn't want
17 to see -- you thought that your son was lighting up
18 whatever was around his neck and that you didn't want
19 to see that, and so therefore, you didn't actually
20 see the shots fired?

21 A. I did see the shots fired. I was in
22 the window the whole time. I was on the phone with
23 my son.

24 Q. Is it your statement today that at no

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1 point did you turn away from the window?

2 A. No.

3 Q. Just to clarify, no, you didn't turn
4 away from the window?

5 A. No, I did not.

6 Q. Is there a reason why the statement you
7 gave the State Police on May 20th you said that you
8 did turn away from the window?

9 A. I don't recall that. I turned away
10 from the window after they shot him. Then I went
11 back into the great room, but the only thing I saw
12 was they were screaming at him and then they just
13 started shooting.

14 Q. Is it your testimony today that on May
15 20, 2017 you understood that at the time that you
16 gave the interview to the State Police that Trooper
17 Pagan and Splain had shot your son?

18 A. I may -- it was so far beyond my
19 comprehension that they would do something like that.
20 Now, you know, I called them for help, I didn't call
21 them for them to kill him.

22 Q. At some point in time, did you believe
23 that your son had lit an explosive device that was
24 around his neck?

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1 A. No.

2 Q. At some point in time, did you believe
3 that he actually had some type of explosive device
4 around his neck?

5 A. He did say that on the phone that he
6 had something that he would blow his head off.

7 Q. When you refer to that he said that on
8 the phone, was that prior to his arrival at your
9 house or was that while he was on the phone with you
10 sitting out in the driveway?

11 A. I think he mentioned that before he
12 arrived at the house and then when he parked in front
13 of the house, he did say that to me on the phone.

14 Q. Okay. So prior to his arrival at the
15 house, he said that he had an explosive device?

16 A. He had a firecracker.

17 Q. Is it your recollection today that he
18 said he had a firecracker or that he had some type of
19 explosive?

20 A. He did not mention the explosive. He
21 just said he would blow his head off.

22 Q. So prior to his arrival at your house
23 he mentioned that he was going to blow his head off?

24 A. To my knowledge.

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1 Q. That was on a phone call with you?

2 A. That's correct.

3 Q. Okay. Please continue.

4 A. But I believe the state troopers heard
5 that also.

6 Q. Yes. Okay. Did you have -- was this a
7 phone call during which -- let me rephrase.

8 Was this a phone call with your son in
9 which you had the phone on speakerphone?

10 A. Yes.

11 Q. And the two troopers were in your home
12 at the time?

13 A. Yes.

14 Q. And it's your impression that they
15 heard that statement as well, that he would blow his
16 head off?

17 A. Yes.

18 Q. Then I believe you just testified that
19 when your son arrived at your house and was sitting
20 in his car, he was on his phone with you again, and
21 he, again, mentioned that he would blow his head off,
22 something to that effect?

23 A. Something to that effect, if he saw
24 police officers.

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1 Q. Do you recall if your impression on
2 that date was that he was actually getting ready to
3 light whatever explosive may have been around --

4 A. Not to my knowledge.

5 * * * * *

6 (Whereupon, Exhibit-1 was marked for
7 identification.)

8 * * * * *

9 BY MS. LE:

10 Q. Ms. Monaghan, I'm handing you what has
11 been marked by the court reporter as Exhibit-1 for
12 your deposition. This is a transcript of the
13 interview that you gave to the State Police on May
14 20, 2017, and understanding that it's painful for you
15 to have to relive this, I just need to clarify.

16 A. Do you need me on a page on here?

17 Q. Yes. First of all, I'm sure your
18 counsel will tell you as well, any time you're handed
19 an exhibit, you should feel free to take as much time
20 as you need to review the entire exhibit if you so
21 wish. I will direct you to certain portions.

22 So if you could, just turn to page 16,
23 you'll see at the bottom in the middle of every page
24 there is a page number, if you turn to page 16 of the

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1 transcript. In the second portion where you provide
2 testimony you'll see on the left is the name of the
3 person speaking. In the second section where you
4 provide testimony in the big paragraph, if you could
5 please read that?

6 A. I'm sorry, say that again.

7 Q. If you could read the paragraph at the
8 top that begins your testimony where you say yeah,
9 and then what happened was, that block of testimony,
10 if you could read that to yourself?

11 A. (Witness complies.)

12 There's a little confusion here.

13 Q. Okay.

14 A. There were two police officers there.
15 They had two police cars that were behind the pool
16 that could not be seen from the roadway, and then
17 what happened was from that time Tony was still in
18 the car and the police officers came -- there were
19 two driveways. There were two driveways coming out
20 to the front of the house which is like right here.

21 They boxed him in there and then they
22 got out of their car and the only thing they just
23 started shouting at him and then they started firing
24 at him.

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1 Q. So here where you say at the end of
2 your testimony and he said okay, mom, and he ignited
3 that thing and all I heard were the things exploding,
4 they were trying to get him out of the car.

5 A. They did not try to get him out of the
6 car.

7 Q. This is a statement that you gave on
8 May 20, 2017. Is there a reason why you are changing
9 your statement between May -- the day that the
10 incident occurred and today?

11 A. I'm not sure I'm changing my statement.
12 My eyes will never forget what I saw. I was in shock
13 over this whole thing and I may have said the wrong
14 thing.

15 Q. Here also you state that, and he said
16 okay, mom and he ignited that thing and all I heard
17 were the things exploding. At the time that you gave
18 this statement, it appears that your impression was
19 that he ignited whatever it was?

20 A. That was my impression. I did not
21 think that the police officers that I called for
22 help -- I couldn't even process something like that
23 happening.

24 Q. Okay. So your impression on May 20,

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1 2017 when you gave this statement was that he
2 quote/unquote ignited that thing?

3 A. Yes.

4 Q. Okay. Now, you also testified later
5 down the page that you stated all I heard the officer
6 screaming, show me your hands, show me your hands.
7 Do you recall -- sitting here today, do you recall
8 them saying show me your hands, show me your hands?

9 A. Show me your hands, get out of the car.
10 Show me your hands, get out of the car. They said
11 that three or four times.

12 Q. Okay. Now, again, one line down from
13 what I just read, you testified on May 20, 2017 I
14 couldn't see in the car, but I was by the window. I
15 had to then, I just turned around and ran back
16 because I knew what he was doing. So here this
17 testimony you gave on May 20, 2017 you said -- you
18 turned around and you ran back into the house?

19 A. I was already in the house by the
20 window.

21 Q. Right.

22 A. Like I said, I could not process what
23 they were doing out there. I took it to say that he
24 may have carried out what he was talking about, but

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1 he was in such a depressed state and when the police
2 officers got there, they didn't try to help him.

3 Q. Let me ask my question in a little bit
4 better way. It appears from your testimony on May
5 20, 2017 that I just read that you turned away from
6 the window facing back inside the house versus out
7 the window as you originally stated. Is that an
8 accurate testimony that you gave on May 20, 2017,
9 that you turned away from the window?

10 A. I don't believe I did, you know, I just
11 don't believe I did. I saw them shoot him. Again,
12 may I speak again. At that point, like I said, it
13 wasn't even in my thought process that they would
14 shoot him. They made no attempt to get him out of
15 the car. He didn't have a weapon.

16 Q. Okay. I'm sorry, I didn't mean to cut
17 you off.

18 A. That's okay, I just wanted to clarify
19 that.

20 Q. Of course. At any point today, please
21 feel free to clarify anything you need to say.

22 A. Uh-huh.

23 Q. Did you have more or are you done at
24 this point?

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1 A. Yes.

2 Q. All right. So sitting here today, your
3 recollection is that you witnessed the troopers
4 firing their weapons?

5 A. Yes.

6 Q. Is it possible sitting here today that
7 you actually learned of the troopers firing their
8 weapons during your interview with the interviewer,
9 Mr. Everk?

10 A. I don't believe so.

11 Q. Why do you believe that that was not
12 the situation?

13 A. Because I witnessed it. You just don't
14 forget something like that.

15 Q. If you would turn to page 17 in that
16 transcript there, about halfway down the page you
17 testified and the police -- the police couldn't be
18 any nicer, they did have their pistols drawn. I
19 can't confirm the fact that they shot. I don't know
20 that because I heard that going off in the car and I
21 just couldn't look at him like that.

22 So my question is seeing that testimony
23 that you gave on May 20, 2017, does that refresh your
24 memory that perhaps at the time you gave this

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1 statement you were not aware that the State Police
2 had fired their weapons?

3 A. Correct, but I couldn't believe that
4 they would do that only because of the circumstances.
5 They knew Tony at that time was suicidal and they
6 made no attempt to help him.

7 Q. Again, just for the sake of the record
8 to clarify it, having read this testimony that you
9 gave on May 20th, you now recall that at the time you
10 gave this statement you were not aware that the State
11 Police had fired their weapons?

12 A. Obviously not at that time.

13 Q. You came to learn that they fired their
14 weapons?

15 A. I think it was -- like I said, for them
16 to be there and that was not in my thought process
17 that they were going to shoot him.

18 Q. Of course. Here your testimony is that
19 the police couldn't have been any nicer on the date
20 of the incident when you gave this testimony. Do you
21 recall if your impression on that date was that the
22 troopers were trying to assist your son?

23 A. They were in my house for an hour.
24 Whether they were going to assist him, I don't know

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1 what they were thinking, but the one trooper came in
2 the front door and he was fooling around with the
3 window curtain and he said I don't want to get shot
4 in the back, I have a family to go home to. How
5 insensitive is that?

6 And not only that, in my opinion I
7 believe he had an anxiety level, and, you know, I
8 have my own thoughts about that.

9 Q. At what point do you recall feeling
10 that one of the troopers had an anxiety level?

11 A. Well, when he said that to me, he said
12 I have a family to go home to, I don't want to get
13 shot in the back and Tony didn't have a weapon.

14 Q. At what point do you recall him making
15 that statement during the time that he was at your
16 house?

17 A. As soon as he came in the door.

18 Q. Do you recall which of the two troopers
19 made that statement?

20 A. It was a tall dark haired guy, thin,
21 slight build.

22 Q. Do you recall if the two troopers
23 arrived at the same time?

24 A. No.

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1 Q. Was it the trooper who arrived first or
2 second that made the statement?

3 A. Second.

4 Q. I'll represent to you that the trooper
5 who arrived second was Trooper Splain just to make it
6 easier for reference.

7 A. Okay.

8 Q. Is it your impression sitting here
9 today that you weren't sure what the two troopers
10 were doing at your house that day?

11 A. I was sure I called them, I called them
12 for help.

13 Q. Did the two troopers give you any
14 impression that they were not there to help?

15 A. I don't understand that. What do you
16 mean that they were not there to help. Did I get the
17 impression that they wanted to help him?

18 Q. Let me rephrase my question.
19 So you called the State Police --

20 A. Uh-huh.

21 Q. -- to get assistance for your son?

22 A. Uh-huh. Yes.

23 Q. And that assistance included you wanted
24 them to bring him in for a potentially an involuntary

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1 commitment?

2 A. Correct, yes.

3 Q. And earlier in your call to the State
4 Police you had asked the State Police to try to track
5 him so that they could bring him in?

6 A. Yes.

7 Q. When Troopers Pagan and Splain arrived
8 at your home during the time that they were there,
9 did they give you the impression that they were
10 trying to do anything other than bring your son in
11 for an involuntary commitment as you asked?

12 A. No, I wouldn't know what they were
13 thinking because they were in another front room.

14 Q. Were they speaking with you throughout
15 the time that they were at your home?

16 A. Not totally.

17 Q. Were there portions of the time that
18 they were at your home where they were speaking with
19 you?

20 A. I believe the one trooper, I can't
21 remember who it was, but I believe one of the
22 troopers had said that -- well, they were here, they
23 were in my house for at least an hour and, of course,
24 they said well, we can't stay here all day.

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1 Q. Is it your impression -- let me ask
2 you: Sitting here today, what is your impression of
3 the two troopers' demeanor during the time that they
4 were in your home?

5 A. I just don't feel that they tried to
6 help the situation. I believe they could have called
7 for someone to talk to him or help him get out of the
8 car because he never did. So I mean -- I can't make
9 an assumption of what kind of frame of mind they were
10 in only because I was very upset over the whole
11 thing.

12 Q. Okay.

13 A. I don't believe they tried to help.

14 Q. Why do you believe that they didn't try
15 to help?

16 A. They were in my house when I saw them
17 flying out of the front door and, of course, they
18 came around and trapped Tony in there and they didn't
19 try to get him out of the car and he never got out of
20 the car once he hit the farm. So, you know, all they
21 did was they just started screaming at him.

22 Q. Had they discussed with you prior to
23 your son's arrival that they were going to try to
24 wait for him to come into the house to apprehend him?

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1 A. That's correct, yes.

2 Q. Do you recall if once your son arrived
3 at the house that they were waiting for him to get
4 out of the car but only left the house to stop him
5 when they saw him moving the car?

6 A. He didn't move the car.

7 Q. Were you standing at the window
8 watching his car during this time when he was there?

9 A. Yes.

10 Q. Prior to the police leaving the house?

11 A. Yes.

12 Q. Okay. So your recollection is that
13 your son didn't move the car at any point while he
14 was sitting in the driveway?

15 A. No.

16 Q. Okay. So do you have -- were you going
17 to say something?

18 A. May I say something?

19 Q. Of course.

20 A. The car was running at the time and
21 then the two police officers, one was behind and one
22 was in the front and then of course once they shot
23 him, they drug him out of the car and laid him on the
24 roadway. At that time because the car was still

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1 running, it moved up to the tree which was -- it
2 moved maybe two feet and then it stopped on the
3 mulch.

4 Q. Now at the time you gave your statement
5 on May 20, 2017 to Trooper Everk, you stated that you
6 couldn't -- you were looking out the window but you
7 couldn't see actually into your son's car; is that
8 correct?

9 A. That's correct, yes.

10 Q. But you could see where the troopers
11 were positioned in relation to your son's car,
12 correct?

13 A. That's correct.

14 Q. Sitting here today, you testified that
15 you felt -- you feel that the troopers were not
16 trying to help your son on that date --

17 A. Yes.

18 Q. -- is that right?

19 A. That's correct.

20 Q. Other than the fact that they did not,
21 as you described it, try to get him out of the car
22 when he arrived, is there anything else that they did
23 or said during the time that they were with you that
24 gives you that belief that they weren't trying to

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1 help your son?

2 A. Right. I don't believe they were there
3 to help him. Only through their own actions.

4 Q. What I'm trying to get at is what did
5 they do and say -- excuse me -- that gave you the
6 impression that they weren't there to help him?

7 A. I don't believe they said anything to
8 me because, like I said, both police officers were in
9 the front room and I was in the great room. What
10 they talked about among themselves, I don't know.

11 Q. Did, at some point, they try to ask you
12 to get your son to come to the house so they could
13 bring him in?

14 A. Yes.

15 Q. At that time when they asked you to do
16 that, did you think that was a good idea?

17 A. Well, I knew he needed help and at that
18 time I thought it would work if they could get him
19 and take him for help.

20 Q. So at the time when they asked you to
21 do that, did you have any impression that they were
22 trying to do anything other than get him to your
23 house to try to bring him in to get help?

24 A. I didn't have that thought only

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1 because, like I said -- it was so far beyond my
2 thought process, I asked them for help.

3 Q. So at the time that they asked you to
4 try to get him to the house, your belief was that
5 they could get him to the house so they could help
6 him?

7 A. Yes.

8 Q. And it was only since you found out
9 later that they shot him that your impression has
10 changed?

11 A. Yes.

12 Q. Did you, on May 20, 2017, during the
13 time that the two troopers, Splain and Pagan, were in
14 your home, do you recall if you told the troopers
15 that your son did -- have experience with fireworks?

16 A. I wouldn't, at that time, have any
17 reason to assume that, you know, the only thing I
18 heard was that he had something around his neck.

19 Q. Let me rephrase my question. Putting
20 aside the explosive around his neck statement, you're
21 aware that your son worked with and/or sold fireworks
22 with his cousin; is that right?

23 A. I was aware of that.

24 Q. And that he had some fireworks in his

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1 room on that date of May 20, 2017?

2 A. Yes.

3 Q. Do you recall that you told Troopers
4 Splain and Pagan that your son did have some
5 fireworks and was experienced with fireworks, not
6 explosives but fireworks?

7 A. I don't recall that.

8 Q. You don't recall telling them that?

9 A. Right.

10 Q. Do you recall the two troopers asking
11 you whether or not -- scratch that.

12 You testified earlier that during the
13 one of the calls with your son while the two troopers
14 were in your home that he mentioned that he was going
15 to blow his head off?

16 A. Yes.

17 Q. And that the two troopers heard that,
18 you believe they heard that?

19 A. I believe, I can't say yes or no to
20 that.

21 Q. Do you recall that one or both of the
22 troopers asking you after that phone call whether
23 your son had any experience with explosive devices?

24 A. There's a little bit of difference with

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1 explosive devices as opposed to fireworks.

2 Q. Yes.

3 A. I said fireworks.

4 Q. You recall one of them asking you about
5 fire explosive devices?

6 A. Pardon me, I knew he had fireworks,
7 yes.

8 Q. Okay.

9 A. Whether they asked me that or not, I
10 don't recall that.

11 Q. Do you recall telling Mr. Everk during
12 your interview that your son did have experience with
13 fireworks?

14 A. I may have, I don't recall.

15 Q. Do you recall that the fireworks were
16 -- some of the fireworks that your son had experience
17 with were what's known as M-80s or quarter sticks?

18 A. I have no experience with that. I'm a
19 baby boomer. I used fireworks with the little
20 sparklers. I mean, I have no knowledge of what they
21 did or what they could do.

22 Q. Following the incident on May 20, 2017,
23 did you have any other contact with either Trooper
24 Pagan or Trooper Splain?

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1 A. After that time period?

2 Q. Yes.

3 A. No.

4 Q. Do you have any knowledge or
5 information that Trooper Pagan had any part in
6 investigating the incident that happened on May 20th?

7 A. I don't know that.

8 Q. Okay. So you would have no knowledge
9 or information that Trooper Pagan had any part in
10 deciding who should investigate that situation?

11 A. That's correct, I don't know.

12 Q. And can the same be said you have no
13 knowledge or information that Trooper Splain had any
14 involvement in the investigation of the incident?

15 A. No.

16 Q. Is it your understanding and belief
17 that Trooper Pagan and Trooper Splain were at your
18 house on May 20, 2017 as a part of their duties as
19 Pennsylvania State Troopers?

20 A. I believe that or else I wouldn't have
21 called them.

22 Q. Okay.

23 A. Whether they followed through as
24 professionals, I disagree with that, they did not.

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1 Q. I understand. Why do you believe that
2 they did not follow through as professionals?

3 A. They rushed on him, they ran out of the
4 house, they got in their cars and then they started
5 firing. They had no conversation with him at all and
6 then they said he lit a lighter and they started
7 shooting.

8 I just don't -- as a mother, I just
9 don't believe that they took the time that they
10 should have taken to try and talk him out of the car
11 or just try to talk to him in some way to get him to
12 realize what was going on. They made no attempt to
13 do that.

14 Q. What do you think they should have done
15 differently?

16 A. I think they should have maybe tried to
17 get a suicide prevention counselor there. They had
18 an hour to do that because they knew he was coming
19 back to the farm. Don't they carry Tasers? They
20 were not threatened in any way, he just didn't get
21 out of the car.

22 Q. Understanding that you couldn't see
23 into the car and you don't have any knowledge, but
24 since you say that they were not threatened in any

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1 way, if it's true that as the troopers say that they
2 saw your son, you know, turn on a lighter and
3 believed him to be lighting some type of device that
4 they saw around his neck, just assuming that that's
5 -- understanding you don't know if that's true or
6 not, if that's what they saw from their vantage
7 point, do you believe that it would have been
8 reasonable for them to fear they were in danger if
9 they saw something around your son's neck after the
10 statement he made and lit a lighter?

11 A. There is a whole roadway there, they
12 could have got in their vehicles and just split or
13 moved away from the car.

14 Q. Do you recall that one of the troopers
15 was, you know, maybe just feet from the driver's side
16 of your son's car?

17 A. They were both on the driver's side.

18 Q. Your recollection is that both were on
19 the driver's side?

20 A. One was in the back, one was in the
21 front.

22 Q. Do you recall how close the trooper was
23 who was in the front was to the car?

24 A. Just a couple of feet, they both were

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1 just a couple of feet away from him.

2 Q. So if Trooper Pagan stated that what
3 they saw was, as they were just a few feet from the
4 car, they saw something strapped around your son's
5 neck and he had a lighter that he clicked on and was
6 about to or let me say the lighter came on and it was
7 very close to whatever he had around his neck.

8 Do you believe at this point for the
9 troopers to be fearful that they were in danger?

10 A. Not if there were exits for them to
11 take. There were three people -- well, there were
12 plenty of people on the farm, but I saw nothing
13 around his neck. The one girl in the barn passed him
14 to go get her horses and saw nothing around his neck
15 and the eyewitness, Bob Cruts, saw nothing around his
16 neck.

17 Q. You previously stated that you could
18 not see into the car?

19 A. That's correct.

20 Q. Do you recall Mr. Cruts was as close to
21 your son's vehicle as to the two troopers?

22 A. No.

23 Q. Do you recall where he was when he
24 witnessed --

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1 A. He was in his apartment.

2 Q. How far away from the car would you say
3 that is?

4 A. Maybe about 20, 25 feet.

5 Q. Do you recall from his vantage point
6 what direction he would have been looking at the car,
7 for example, would he have been looking at the back
8 of the car, the passenger side or directly into the
9 front of the car?

10 A. His apartment is elevated so at that
11 point he could only see the back of the car.

12 Q. Okay. So he didn't have a view of your
13 son directly?

14 A. Correct.

15 Q. Okay. You said the other witness,
16 you're referring to Lori?

17 A. Yes.

18 Q. Also saw your son?

19 A. Yes.

20 Q. Okay. Do you recall how close she was
21 to your son?

22 A. The car was in front of a yard and the
23 driveway was right there. I mean she had to be maybe
24 two feet away from him because she said good morning

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1 Tony, how are you doing and he answered.

2 Q. Do you recall what angle she was
3 looking into the car?

4 A. Coming from behind.

5 Q. So she was behind the car?

6 A. She approached the car from behind.

7 Q. And then did she pass by the driver's
8 side of the car, to your knowledge?

9 A. Yes.

10 Q. And you said that she passed by within
11 two feet of the car?

12 A. Yes.

13 Q. Do you have any knowledge whether or
14 not she looked into the car when she spoke to your
15 son?

16 A. I can't answer that, I don't know.

17 Q. So when you said that she didn't see
18 anything around your son's neck, do you have any
19 knowledge that she actually looked at your son and
20 she didn't see or did she just tell you I don't
21 recall seeing anything?

22 A. I don't think I even talked to her
23 about that.

24 Q. How do you know she didn't see

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1 anything?

2 A. I guess I don't know.

3 Q. Are you aware of any witness stating
4 that they actually were able to see your son at that
5 time while he was sitting in the car on that day and
6 that they did not see anything around his neck?

7 A. I can't speak for somebody else.

8 Q. I meant only that you have no knowledge
9 of that?

10 A. No, I have no knowledge.

11 Q. Okay. You testified that the two
12 troopers should have called a suicide prevention,
13 some kind of person?

14 A. Is that not protocol?

15 Q. Did you request either of the troopers
16 to call in a suicide prevention specialist?

17 A. I did not only because they knew he was
18 suicidal. I thought it was part of protocol that
19 somebody would try to get to him before the troopers
20 got to him.

21 Q. Did you attempt to call any mental
22 health professionals?

23 A. We called the suicide hotline.

24 Q. Did you ask them to send anybody to

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1 assist?

2 A. I did not only because I figured that
3 they would do that, they would automatically send
4 somebody.

5 Q. But during the time, the hour or so
6 that you said the troopers were at your home, you
7 didn't specifically ask them to call in any kind of
8 mental health professionals?

9 A. No, I did not. I firmly believed that
10 they were going to try to help him.

11 Q. That the two troopers that were there
12 were going to try to help him?

13 A. Right.

14 Q. Do you recall that -- now you testified
15 earlier today the troopers, you know, had time to
16 call somebody, they were at your house for an hour or
17 so before your son arrived; is that right?

18 A. Yes.

19 Q. Okay. Do you recall it was not -- when
20 they first arrived at your home, the two troopers
21 this was not -- at that point you didn't know your
22 son was going to be arriving at the house; is that
23 right, do you recall that?

24 A. When they got there, but they wanted me

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1 to get him back to the house.

2 MS. LE: Off the record.

3 * * * * *

4 (Whereupon, an off the record
5 discussion was held.)

6 * * * * *

7 BY MS. LE:

8 Q. Ms. Monaghan, so having read some parts
9 of your testimony from May 20, 2017 to Trooper Everk,
10 do you recall now that your impression on the day
11 that you gave this statement was that your son was
12 lighting whatever he may have had, explosives he may
13 have had at the time?

14 A. At that time, yes.

15 Q. Okay. And --

16 A. That was my first initial thought.

17 Q. And then you came to learn later that
18 he was actually shot by the police?

19 A. Yes.

20 Q. And was --

21 A. But I seen them shoot him.

22 Q. So your testimony today is that you
23 believe you saw them shoot?

24 A. I saw them shoot him.

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1 Q. When you testified on May 20, 2017, I
2 can't confirm the fact that they shot, do you have
3 any reason to understand why you would have said on
4 that day that you can't confirm that they shot?

5 A. Because it was not in my thought
6 process that they were doing something like that at
7 this time.

8 Q. So at the time that you gave this
9 statement to Trooper Everk and stated I can't confirm
10 the fact that they shot, when you stated that, had
11 you seen them -- did you know for a fact that they
12 had shot their weapons, the two Troopers Pagan and
13 Splain?

14 A. Yes. They did, like I said, I think
15 it's very difficult for someone to stand there and
16 watch your son or your daughter die like that. Now,
17 granted they did -- he did say he had something
18 around his neck, but, again, it was not in my thought
19 process they would even do that, but my eyes will
20 never forget what I saw.

21 Q. Do you recall that you turned your face
22 away from the window at some point from the incident?

23 A. I don't recall that.

24 Q. So I'll again direct your attention to

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1 page 16 of Exhibit-1 that I showed you earlier.

2 A. Okay.

3 Q. At the bottom -- towards the bottom of
4 the page you testified that, I'm reading here from
5 the bottom, all I heard from the officer screaming
6 show me your hands, show me your hands and apparently
7 then he ignited whatever was around his neck.

8 Trooper Smith then asked did you see him do that?

9 You then testified I couldn't see in the car, but I
10 was by the window. I had to -- then I just turned
11 around and ran back because I knew what he was doing.

12 So does this -- seeing this testimony
13 that you gave on the date of the incident, does this
14 refresh your memory that you did, at some point, turn
15 away from the window?

16 A. I certainly could have done that, but
17 it wasn't until after the shooting happened.

18 Q. Okay.

19 A. Actually after the shooting, I did go
20 back into the great room to call my ex-husband and
21 then when I came back to the window, they had him out
22 on the ground.

23 Q. If you'll look on that same page, page
24 16 in the middle of the page, Trooper Everk states --

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1 sorry, at the top of the page you had testified and
2 he said okay, mom and he ignited that thing and I
3 heard were the things exploding, they were trying to
4 get him out of the car.

5 Trooper Everk then states he did have
6 something around his neck and you stated --
7 testified, yeah. And then Trooper Everk testified
8 but he was also our guys, the two guys that were
9 there, one of them or if not both, at this point we
10 do not know, shot him also. And then you testified
11 oh, my goodness.

12 Do you recall -- seeing this today does
13 this refresh your memory that that may have been the
14 point that you learned that the two troopers had shot
15 Mr. Ardo, your son?

16 A. I don't know that.

17 Q. On page 17 of the transcript trooper --
18 you testified at the top of the page and then one of
19 troopers came around from the back of the house
20 around the pool area there and he stopped them and
21 there was the other one was in the back of him and
22 then all I heard him say was okay, okay, mom and he
23 ignited that thing.

24 Trooper Everk stated you were on the

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1 phone with him at this point? And you testified yes.
2 Trooper Smith asked you heard it light? And you
3 testified no, he said okay, mom and he hung up and a
4 split second later I heard it, I heard the explosion
5 in the car. Trooper Smith stated okay.

6 And Trooper Everk states was there --
7 you then testified and the police couldn't be any
8 nicer. They did have their pistols drawn. I can't
9 confirm the fact that they shot. I don't know that
10 because I heard that going off in the car and I just
11 couldn't look at him like that?

12 Does this refresh your memory at all
13 seeing this testimony whether or not you turned away
14 from the window when your son hung up the phone?

15 A. I turned away after they shot him.

16 Q. But based on your testimony on the day
17 that you spoke with the Trooper Everk and Trooper
18 Smith, you stated that you, as soon as your son hung
19 up the phone, you heard at the time you thought him
20 igniting explosives?

21 A. Yes.

22 Q. And then you turned -- and you
23 weren't -- you didn't actually see anything?

24 A. I'm sorry, rephrase that. What do you

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1 mean I didn't see anything?

2 Q. So based on your testimony, May 20th
3 which I just read to you, you testified on that day
4 that after your son hung up the phone you heard
5 explosives going off or what you thought at the time
6 were explosives going off. So at that point you are
7 testifying today that you then turned away from the
8 window?

9 A. I turned away after the police officers
10 had their weapons and they were shooting. It was so
11 far beyond comprehension they would try to shoot him
12 like that because I asked for help. I didn't ask for
13 them to kill him.

14 Q. I understand.

15 A. My eyes will not let me forget what I
16 saw.

17 Q. I understand. I'm just trying to
18 understand. I'm not trying to give you a hard time.

19 A. No. No, I know that.

20 Q. I know that this is very difficult.
21 What I'm trying to understand today is why at the
22 time that you gave the statement to Trooper Everk and
23 Smith on May 20th after the incident you did not
24 recall that the troopers had -- you did not recall

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1 that you saw the troopers shooting, but sitting here
2 today you say that you are certain that you saw the
3 troopers shooting?

4 A. Yes.

5 Q. Is there -- can you explain why on the
6 date of the incident when you gave your statement you
7 did not recall the troopers shooting, but sitting
8 here today you said you remembered it?

9 A. I remembered it that afternoon or that
10 evening because, you know, friends came and we wrote
11 everything down exactly how it happened. I mean,
12 like I said, it was not part of my thinking that they
13 would even do that. I went into shock I think.

14 Q. So you believe that at the time you
15 gave the statement you did not recall it, but then
16 later when you were meeting --

17 A. With my friends and we went over
18 everything -- I'm sorry. We went over everything.
19 We wrote everything down on paper and the time and
20 exactly what happened and that's when I knew that's
21 what happened.

22 Q. So it's at that point you have given
23 your statement that you then recollected that they
24 had shot their weapons?

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1 A. I gave my statement as to what I
2 thought was happening.

3 Q. Okay.

4 A. Because I didn't believe that they
5 would do that. That's probably my point. I never
6 even thought that they would do something like that.

7 Q. Okay. At the time when you gave your
8 statement to the troopers, according to their
9 records, it was at 1 o'clock in the afternoon. You
10 were not aware that the trooper had shot, but then
11 later when you were going over the events of the day
12 with your friends and you were writing everything
13 down, at that point you had learned that they shot
14 and you recalled that yourself?

15 A. No, I believe I knew that when they
16 were doing the shooting.

17 Q. Is there some reason why you would not
18 have -- you would have stated to the contrary when
19 you were testifying to Troopers Everk and Smith?

20 A. I don't know if it is to the contrary.
21 My words at that point had to be -- I was devastated
22 with the whole thing and that's maybe why I came
23 across that way.

24 Q. Okay. So when you testified that you

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1 couldn't confirm the fact that they shot on May 20,
2 2017, at that point you actually were sure they shot,
3 you just stated that you couldn't confirm that they
4 shot?

5 A. Not that I wanted to lie about it. It
6 was like I said, it was so far beyond my
7 comprehension that they would do that.

8 Q. Did you --

9 A. I think your brain and your whole
10 demeanor saves you at some point from such trauma and
11 that's what I believed happened here.

12 Q. Okay. But then having learned from the
13 statement, State Police investigators said that your
14 son was indeed shot. Is that then what caused you to
15 be sure that they (sic) were shot?

16 A. I think I was sure when they were
17 shooting him. They did come in and they did tell me
18 he was shot before I went to the State Police
19 barracks.

20 Q. Okay. So you believed that you learned
21 from the State Police that your son had been shot
22 prior to giving your statement to Troopers Everk and
23 Smith?

24 A. I don't think that was the case.

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1 Q. Okay. I misunderstood you then. Do
2 you recall if at the time you gave your statement to
3 Troopers Everk and Smith whether you knew for sure
4 that your son had been -- let me rephrase.

5 Do you recall if at the time you gave
6 your statement to Troopers Everk and Smith that you
7 knew Trooper Pagan and Smith had shot at your son?

8 A. I'm not sure of the time frame there.
9 I'm not sure if they talked with me at my house or if
10 they talked with me at the State Police barracks.

11 Q. So you don't recall at this point
12 sitting here today whether you knew that the two
13 troopers had fired at your son when you gave your
14 statement to Troopers Everk and Smith?

15 A. No, I did not. After we went to the
16 State Police barracks I was in shock. Like I said, I
17 don't -- it was far beyond my comprehension that I
18 had to witness that.

19 Q. So it is your statement that you knew
20 at the point when you gave the statement but you
21 didn't recall because you were in shock?

22 A. Yes, that would be my assessment
23 myself.

24 Q. Okay. But then you did recall that

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1 after your interview with them later in the evening
2 when you were talking to your friends?

3 A. It wasn't later in the evening --
4 right. Well, I spent a couple of hours at the State
5 Police barracks, so it had to be -- I don't recall if
6 they came into the house before I went to the police
7 barracks, it could have been, I just don't recall.

8 Q. Having seen some of your testimony from
9 May 20, 2017, do you recall if your impression during
10 your conversation with your son while he was sitting
11 in his car was that he was intending to --

12 A. Commit suicide?

13 Q. Yes.

14 A. Yes.

15 Q. And that was based on whatever he was
16 saying to you on the phone and his demeanor at the
17 time?

18 A. Yes.

19 Q. Okay.

20 A. But the two police officers knew that
21 at that time.

22 Q. They knew what, ma'am?

23 A. They knew he was suicidal.

24 Q. To be clear, based on your conversation

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1 with your son while he was sitting in the car and you
2 were on the phone with him, you believe that he did
3 indeed have an explosive, that he had threatened and
4 he was about to light it up?

5 A. I probably knew that, yes.

6 Q. Okay. If the -- let me rephrase.

7 Do you believe that the two troopers on
8 May 20, 2017 should have allowed your son to drive
9 away in his car instead of engaging with him and
10 blocking him in?

11 A. That's not what I wanted to happen on
12 that date. I wanted them to take him and get him
13 help.

14 Q. So in terms of thinking that they could
15 have done more on that date, you had said before that
16 they should have called in some kind of -- I don't
17 remember the phrase you used, crisis prevention,
18 suicide prevention or mental health professional,
19 something along those lines?

20 A. Yes.

21 Q. Other than calling someone along those
22 lines, is there anything else that you believe they
23 should have done that day that they didn't?

24 A. I don't know what the protocol is for

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1 the troopers. I totally believe they acted too
2 quickly and it was excessive force as far as I'm
3 concerned.

4 Q. When you say that they acted too
5 quickly, what part of their actions was too quick?

6 A. They flew out of the front door. They
7 came on up in the two police cars and they got out
8 and that's exactly when they started screaming at him
9 and it was over, he was dead.

10 Q. Do you believe they should have stayed
11 in the house and waited for a longer period of time?

12 A. Like I said, I don't know what protocol
13 is. All I know is they went flying and then they
14 started shooting.

15 Q. During your statement on May 20, 2017,
16 you stated that the troopers couldn't have been
17 nicer. Do you recall at what point you changed your
18 impression of their demeanor?

19 A. They came into my house and they asked
20 me questions and at that time they were very
21 respectful and very cordial until they got him back
22 at the house or I got him back at the house and then
23 the whole thing just went out the front door.

24 Q. Okay. So is it your impression that

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1 initially they were -- couldn't have been any nicer,
2 but then at the point where they flew out of the
3 house as you described, that's when things changed?

4 A. I think some things changed after I
5 heard that comment, you know, he didn't want to get
6 shot in the back because he had a family to go home
7 to. I mean that -- that kind of changed a little bit
8 as far as my thinking is concerned.

9 Q. Do I recall your testimony accurately
10 that you said that that comment occurred soon after
11 Trooper Splain arrived?

12 A. That's correct, yes.

13 Q. So fairly early into your roughly one
14 hour with the two troopers?

15 A. Correct.

16 Q. So from that point when you said that
17 Trooper Splain made that comment about not wanting to
18 get shot in the back is your recollection that you
19 then no longer believe them to be, you know, acting
20 very nicely towards you?

21 A. That's not -- no, they were. I mean my
22 opinion changed a little then, but they weren't with
23 me the whole time. They were in the front room
24 watching and waiting for him to come up the driveway.

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1 Q. When you say that your impression
2 changed after you heard that statement, in what way
3 did your impression change?

4 A. I thought he was an arrogant young cop.
5 That's what I thought. I mean how do you make a
6 statement like that? You're on duty and you are
7 somewhere where you're supposed to be helping someone
8 else.

9 Q. Did you, at that point, have any
10 concerns as to how he would handle the situation with
11 your son?

12 A. Yes.

13 Q. Did you express those concerns in any
14 way, either to those two troopers or to anybody?

15 A. No.

16 Q. What concerns did you develop at that
17 point about how Trooper Splain would handle the
18 situation given what you heard him say?

19 A. I don't know if that was necessarily my
20 thought process.

21 Q. So from sitting here today, you believe
22 that from the moment you heard Trooper Splain make
23 that statement you started to develop concerns about
24 how he would handle the situation?

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1 A. I think so.

2 Q. When you gave your statement to Trooper
3 Everk and Trooper Smith, after everything happened
4 why didn't you express those concerns to Troopers
5 Everk or Smith?

6 A. I did state the comment that he made.

7 Q. Why did you testify that the police
8 couldn't have been any nicer if you had such
9 concerns?

10 A. But when they came to the house, they
11 were.

12 Q. Okay.

13 A. As time went on it changed my mind.

14 Q. The point at which you say the police
15 couldn't be any nicer is when you were testifying
16 about them getting ready to leave the house, it's on
17 page 17 of the transcript, and you say that the
18 police couldn't be any nicer. They did have their
19 pistols drawn, et cetera, et cetera.

20 Does that refresh your memory that at
21 the time you gave this statement you did believe the
22 troopers to be Troopers Splain and Pagan, they
23 couldn't have been any nicer during the time that
24 they were with you?

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1 A. I think the part -- when I made that
2 statement, I was hoping they were going to help him.
3 That was the main objective for them being there.

4 Q. So at the time -- would it be accurate
5 for me to say that at the time you gave the statement
6 to Troopers Everk and Smith, you still believed that
7 Troopers Pagan and Smith had tried to help your son?

8 A. They did not try.

9 Q. So at the time -- I understand that is
10 your belief now sitting here today. What I'm trying
11 to ask is at the time that you gave this statement to
12 Troopers Everk and Smith, which is roughly 1:00 on
13 the day that it happened, having heard some of your
14 testimony from that day, do you believe that at the
15 time that you gave the statement to Smith and Everk
16 that you did still have an impression that Trooper
17 Splain and Pagan still tried to help your son on that
18 day?

19 A. Not after the shooting.

20 Q. Do you believe that at the time you
21 gave the statement to Trooper Smith and Trooper Everk
22 that you had already formed the belief that Troopers
23 Smith and Pagan were not there to help your son?

24 A. I couldn't make an assessment like

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1 that. I didn't know what was going through their
2 head and actions speak louder than words. I saw what
3 they did. I saw where they went. I saw what the
4 final situation was. So as far as I was concerned
5 they were not there to help him.

6 Q. Right. What I'm trying to ask you is
7 your opinion as to what they were doing or not doing.
8 When you gave your statement to Smith and Everk, was
9 it your belief at that point when you were giving
10 this statement to Trooper Everk and Trooper Smith and
11 that Troopers Pagan and Splain had not been trying to
12 help your son?

13 A. Do I believe that at 1:00 in the
14 afternoon?

15 Q. At the time when you gave that
16 statement, not sitting here?

17 A. That they weren't trying to help him?

18 Q. Let me rephrase. At the point when you
19 gave your statement to Troopers Everk and Smith --

20 A. That was my house at 1:00.

21 Q. -- was it your impression at that point
22 that the troopers were to help your son or not help
23 him?

24 A. Not help him.

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1 Q. So when you gave your statement, you
2 had already formed the belief that the troopers were
3 not trying to help your son?

4 A. That is correct.

5 Q. So when you testified to Smith and
6 Everk and that the two troopers couldn't be any nicer
7 and that they were trying to get him out of the car,
8 I guess my question to you is why did you say that if
9 you had already formed the belief that they were not
10 trying to help your son?

11 A. I may have misspoke. I still may have
12 been under all the stress that I was under that day.
13 What I saw I will never forget. The reason why we
14 called them was to help him, not shoot him, not 11
15 times. I mean --

16 Q. Understanding that you were certainly
17 probably in shock as you said when you know you gave
18 this statement, what I'm trying to understand is if
19 you had already formed concerns as you testified
20 earlier about at the very least, Trooper Splain since
21 he made that statement about not wanting to be shot
22 in the back which is early in the one hour that he
23 was with you?

24 A. That's correct.

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1 Q. If you already had that concern for
2 essentially most of the time that Trooper Splain was
3 with you, then why did you say during your testimony
4 to Trooper Smith and Trooper Everk after the shooting
5 that you thought the troopers couldn't have been any
6 nicer?

7 You, at that point, already had
8 concerns about Trooper Splain for quite sometime. So
9 I'm trying to understand why you would characterize
10 them as couldn't have been any nicer?

11 A. At that time at 1:00 in the afternoon,
12 those two police officers were gone. After the
13 shooting they got them out of there pronto and then
14 sent in a police officer that was really nice and
15 very considerate and maybe that's how I made that
16 statement. He sat in the house with me for quite a
17 while. He was in the kitchen and I was in the great
18 room and he was a genuine person and that's probably
19 where that statement came from.

20 Q. So you believe your statement -- I'm
21 sorry to have to read the same thing over and over,
22 I'm just trying to clarify.

23 A. That's fine.

24 Q. So your testimony is on page 17 and the

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1 police, the police couldn't be any nicer. They did
2 have their pistols drawn. I don't -- I can't confirm
3 the fact that they shot because I heard that going
4 off in the car and I couldn't look at him like that.

5 So you believe that statement that you
6 made where you said the police couldn't have been any
7 nicer was referring to Trooper Everk to whom you were
8 making the statement, you were saying to him -- you
9 were talking to Trooper Everk at the time and Smith
10 and you say quote, "and the police couldn't have been
11 any nicer," in the past tense. You believe that that
12 statement was referring to Trooper Everk who you were
13 speaking to at that very moment?

14 A. Yes. Yes, because he was at that table
15 and he was a very considerate police officer. I
16 think he was a detective from the barracks and he was
17 in plainclothes, so...

18 Q. Why would you, in the middle of
19 speaking about Trooper Pagan and Splain and what
20 happened, what unfolded that day, would you then
21 suddenly say to Trooper Everk you couldn't have been
22 any nicer, I mean this is in the middle of a long
23 statement, a question and answer period of what
24 happened with your son. I don't understand why --

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1 A. I don't believe I directed that to
2 Splain and Pagan. I believe the police officers that
3 were there afterwards were very considerate of my
4 feelings. Very considerate of the whole situation,
5 that is my assessment of that statement.

6 Q. Would you, if you were going to
7 compliment Trooper Everk and possibly Trooper Smith,
8 why wouldn't you have just referred to them in the
9 first person versus says the police couldn't be any
10 nicer and then go on to speak up about the Troopers
11 Pagan and Splain. You said the police couldn't be
12 any nicer. They did have pistols drawn. I can't
13 confirm that they shot, so the rest of the statement
14 is clearly about Pagan and Splain.

15 So why would you think the first
16 sentence was about Troopers Everk and Smith?

17 A. I can't answer that, I don't know.

18 Q. Okay. So you don't recall sitting here
19 today that the police could have been any nicer?

20 A. No, I may have made it as far as
21 Trooper Everk was concerned, because he was.

22 Q. You don't recall making the statement,
23 you believe sitting here today that you -- if you
24 made it, you would have referred to Trooper Everk

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1 because he was -- you recall him being very nice?

2 A. To my recollection, that's where I was
3 coming from, yes.

4 Q. Do you actually recollect the statement
5 and you recollect that that's what you were saying?

6 A. I can't recollect that, no.

7 Q. So you are supposing that that's what
8 you meant because your impression, sitting here
9 today, is that Pagan and Splain were not nice when
10 they were with you, but Trooper Everk was very nice
11 when he was interviewing you?

12 A. I didn't say that they were not nice to
13 me. They were very aloof. They had their own
14 conversations among themselves in the front room.
15 Detective Everk was at least cordial.

16 Q. So what I'm trying to get at is the
17 reason sitting here today that you're saying you
18 believe this statement, the police couldn't be any
19 nicer, that you were directing that at the person you
20 were speaking with, Trooper Everk, is that -- sitting
21 here today you do not have an impression of Troopers
22 Pagan and Splain as being -- couldn't be any nicer,
23 but you do have an impression of Trooper Everk as
24 being very nice?

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1 A. That's correct, yes.

2 Q. But you don't specifically recall this
3 statement that you made on May 20th?

4 A. I do not.

5 Q. Okay. And understanding that this is
6 what you believe you meant at the time sitting here
7 today, can you understand how reading this paragraph
8 now it would sound like you were referring to Splain
9 and Pagan?

10 A. That's somebody else's opinion.
11 Everybody has one.

12 Q. So does it seem reasonable to you that
13 somebody could read this paragraph, this statement,
14 the police couldn't be any nicer as referring to
15 Pagan and Splain since you were talking about them
16 very directly in the next few sentences?

17 A. Yeah, I could see where someone would.

18 Q. I believe you testified earlier that
19 you said that you recall telling Troopers Everk and
20 Smith when you gave them this statement on May 20th,
21 you believe that you told them at that time what you
22 say Trooper Splain -- let me rephrase the whole
23 question.

24 You testified earlier that you told

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1 Troopers Everk and Smith when you gave the statement
2 on May 20th that Trooper Splain had said to you while
3 he was in your house that something along the lines
4 of I don't want to get shot in the back because I
5 have a family?

6 A. Yes.

7 Q. You recall telling Troopers Everk and
8 Smith that?

9 A. Yes.

10 Q. I hate to make you go through the
11 transcript, but since I don't recall seeing it
12 anywhere in the transcript, could you look through
13 the transcript and point it out to me?

14 A. You're asking me to point out what?

15 Q. Your testimony to Smith and Everk that
16 you told them that Trooper Splain had said something
17 along the lines of --

18 A. Yes, I did say that because I was
19 really annoyed about it. I don't know if it's in
20 here. Like I said, I didn't read it. I'm trying to
21 get a grip on what happened and rehashing everything
22 is very difficult. I didn't want to read this, I
23 knew what happened.

24 Q. Is it possible that you did not tell

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1 them that on the day that you gave this --

2 A. I firmly believe I did because that
3 stuck at me because I thought it was very insensitive
4 and he had a lot of anxiety about his job.

5 Q. Did he say anything else to you that
6 caused you to believe him to have a lot of anxiety
7 about his job other than what you already described?

8 A. No.

9 Q. Okay. Do you believe it's possible
10 that you told Troopers Everk and/or Smith at some
11 point outside of this May 20, 2017 interview about
12 the statement?

13 A. No.

14 Q. So you very specifically recall that
15 you said it during this interview?

16 A. Absolutely.

17 Q. Did you speak or have you spoken to any
18 of the neighbors or anybody who may have witnessed
19 what happened on that day?

20 A. I did not. I didn't feel I had to.
21 The eyewitness that is coming this afternoon saw
22 exactly what I saw, and I had never, ever had a
23 spoken word with him about it.

24 Q. How do you know the witness that is

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1 coming later today?

2 A. After the fact he wrote it on paper. I
3 sent that to the attorney, a copy of that testimony
4 and the grand jury at that time had that also.

5 Q. Were you present for I believe the
6 person you're referring to is Mr. Cruts?

7 A. Yes.

8 Q. Were you present for Mr. Cruts'
9 testimony to the grand jury?

10 A. No.

11 Q. Did you read the transcript of
12 Mr. Cruts' testimony to the grand jury?

13 A. He had written down what he saw and I'm
14 not sure where it went or if the police got it
15 because they did question him.

16 Q. Did you see whatever it was that
17 Mr. Cruts had written down?

18 A. Yes.

19 Q. Did he provide this to you?

20 A. Yes.

21 Q. And you said you gave that to your
22 attorneys?

23 A. Yes.

24 Q. Do you know what --

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1 A. At that point it must have gone to
2 Mr. Morganella because he went in and offered to do
3 and did a separate investigation.

4 Q. Not --

5 A. Excuse me. At that point I did not
6 have an attorney, Mr. Morganella was the rep. There
7 was an attorney that I spoke with in Easton and I
8 just don't remember his name.

9 Q. Is it your recollection that you
10 provided a note that Mr. Cruts gave you to
11 Mr. Morganella?

12 A. Yes.

13 Q. Is Mr. Morganella the DA investigator?

14 A. That is correct.

15 Q. Did you make a copy of those notes
16 before giving them to Mr. Morganella?

17 A. Yes.

18 Q. Did you still have a copy of those
19 notes?

20 A. Yes.

21 (REQUEST)

22 Q. I'll ask that you provide them to your
23 counsel to be produced in this case.

24 A. Yes.

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1 Q. So your only knowledge as to what Cruts
2 saw or didn't see on that day is what he wrote on his
3 notes that he provided to you?

4 A. That's correct, yes.

5 Q. You said that you also took notes in
6 the late afternoon or evening following what happened
7 on May 20th?

8 A. Yes.

9 Q. Okay. Do you still have a copy of
10 those notes?

11 A. Yes.

12 Q. Have you provided those to your
13 attorney?

14 A. I believe I provided that to
15 Mr. Morganella.

16 (REQUEST)

17 Q. I ask that you provide that to your
18 attorney so they can be produced in this case.

19 Are you aware of any other notes taken
20 by you or anybody else that relates to what happened
21 on May 20th?

22 A. Just what Lori saw, what Bob Cruts saw;
23 and, of course, what I saw.

24 Q. Do you know if Lori took any notes

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1 about what happened?

2 A. I believe I have a copy of her
3 statement also.

4 Q. Is that a statement that she wrote out
5 and gave to you?

6 A. Yes.

7 (REQUEST)

8 Q. Okay. I would also ask that you
9 provide a copy of that.

10 A. Yes, I believe that did go to
11 Mr. Morganella also.

12 Q. Since I don't work with Mr. Morganella,
13 I don't have any other line to him.

14 A. I understand.

15 Q. I'm not trying to make busy work for
16 you, but these are things that you have in your
17 possession?

18 A. Yes.

19 Q. Is that a statement that you asked Lori
20 to provide to you as to what she saw or how did the
21 statement come about?

22 A. I believe the -- I believe it could
23 have been the attorney or Mr. Morganella that wanted
24 some statements from the people that were directly on

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1 the farm at that time.

2 Q. When you refer to the attorney at that
3 time, would that have been an attorney that you
4 hired?

5 A. No. No.

6 Q. Who are you referring to by the
7 attorney at the time?

8 A. My daughter has, I believe, she would
9 remember the attorney in Easton.

10 MR. SCHAFKOPF: It was Philip
11 something. I don't know his last name or it
12 could have been something Philip.

13 BY MS. LE:

14 Q. Was it an attorney with the DA or was
15 it attorney representing you and your family is what
16 I'm trying to get at?

17 A. We were there just to get the
18 statements. They never hired an attorney.
19 Ms. Morganella stepped in and then it all went from
20 there to the grand jury.

21 Q. So accurate for me to say that
22 Mr. Morganella had requested you to get a statement
23 from Lori as to what she saw. Is that what happened,
24 and then she gave the statement to you?

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1 A. I'm not sure where that came from.

2 Q. Okay, but Lori provided a copy to you
3 of her statement?

4 A. That is correct, yes.

5 Q. And you then provided that to
6 Mr. Morganello?

7 A. Yes.

8 Q. Do you know how long after the incident
9 Lori -- do you recall how long after the incident
10 Lori gave that statement to you?

11 A. I don't recall that.

12 Q. Do you recall if it was a matter of
13 days or if it was more than a month later?

14 A. Oh, it wasn't a month later. It was
15 probably just a matter of days.

16 Q. Other than Lori's statement that she
17 provided to you and Mr. Cruts' notes that he gave to
18 you, are you aware of any other notes or written
19 statements by witnesses to this incident?

20 A. Not to my knowledge.

21 Q. At the time in May -- in or around May
22 2017, I know that your son was doing some work for
23 you on your farm; is that right?

24 A. Yes.

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1 Q. Okay. Other than the work that he was
2 doing for you on your farm, do you know if he had any
3 other employment?

4 A. Not that recent, no.

5 Q. Do you know recall when he was last
6 employed?

7 A. When I originally -- I lived on the
8 farm for 45 years and Tony was always part of that
9 farm maintenance and I thought I had the farm sold in
10 2008 or 2009 and the gentleman that thought he was
11 buying it reneged, so I had to take it back in lieu
12 of foreclosure.

13 Now, in that time period from '09 to
14 2016, Tony had worked for Lifetime Doors and then he
15 came back to me when I bought a house in Martin Creek
16 and then he -- both of us wanted to go back to the
17 farm and live and that's when we went back.

18 Q. So you said that Tony worked for
19 Lifetime Doors between '09 and '16?

20 A. Sometime in between them.

21 Q. Not during that whole period?

22 A. No.

23 Q. What kind of work was he doing for
24 Lifetime Doors?

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1 A. Making doors.

2 Q. Do you know if he was working
3 full-time?

4 A. Yes. At that point, yes.

5 Q. Do you know if your son was receiving
6 any type of Social Security payments or anything
7 along those lines?

8 A. No.

9 Q. So in or around May of 2017, to your
10 knowledge, the only employment he had was working
11 with you on the farm?

12 A. Primarily, yes.

13 MS. LE: I don't have any further
14 questions, Ms. Monaghan, thank you for coming
15 in today.

16 * * * * *

17 (This concludes the deposition of Jean
18 Monaghan at 11:39 a.m.)

19 * * * * *

20

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22

23

24

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C E R T I F I C A T I O N

I hereby certify that the proceedings and
evidence noted are contained fully and accurately in
the stenographic notes taken by me upon the foregoing
matter dated _____2019, and that this is a
correct transcript of the same.

RENEE SCHUMANN
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ANGELO ARDO, et al., :
 :
 Plaintiffs, :
 :
 :
 vs. :
 :
 OFFICER EDDIE PAGAN, :
 et al., :
 :
 Defendants. : NO. 15-05217

— — —

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SERGEANT TYLER BURGESS

1 -----
2 PROCEEDINGS
3 -----

4
5 Counsel, I have a brief statement I
6 ask you to acknowledge before swearing in
7 the witness.

8 The attorneys participating in this
9 proceeding acknowledge that I am not
10 physically present with the witness and that
11 I would be reporting this proceeding
12 remotely.

13 They further acknowledge that in
14 lieu of an oath administered in person, the
15 witness will verbally declare that his or
16 her testimony in this matter is under
17 penalty of perjury.

18 The parties and their counsel you
19 consent to this arrangement and waive any
20 observations at this time or 2349 future to
21 this manner of reporting and swearing in the
22 witness.

23 They also acknowledge and agree that
24 the official transcript is solely the one

SERGEANT TYLER BURGESS

1 transcribed by the the court reporter.

2 Counsel, please indicate your
3 agreement by stating your name and your
4 agreement on the the the record.

5 MR. DIJIACOMO: This
6 plaintiff's counsel Anthony DiJiacomo,
7 agreed.

8 MS. LE: This is Kathy Le
9 counsel for defendant, I agree.

10
11 It is hereby stipulated by and
12 between counsel that the reading, signing,
13 sealing, certification and filing are waived, and
14 that all objections, except as to the form of the
15 question, are reserved until the time of trial.

16
17 SERGEANT TYLER BURGESS,
18 having been first duly sworn, was examined
19 and testified as follows:

20
21 MS. LE: Sir, could you speak
22 up because I wasn't actually able to hear
23 you just now.

24 THE WITNESS: Can you hear me

SERGEANT TYLER BURGESS

1 now?

2 MS. LE: Yes. It might have
3 just been my computer.

4
5 MR. DIJIACOMO: I had trouble
6 too.

7 Sergeant, can you hear me?

8 THE WITNESS: Yes.

9

10 -----

11 EXAMINATION

12 -----

13 BY MR. DIJIACOMO:

14 Q. My name is Anthony DiJiacomo and
15 represent Angelo Ardo and Jean Monaghan
16 individually and on behalf of her son, Angelo
17 Ardo, in a case against the officers as well as
18 the Pennsylvania State Police.

19 Again, so far you can hear me all right?

20 A. Yes.

21 Q. Okay.

22 If there's a point in time that you
23 cannot here hear me or understand me, let me know
24 and I'll try to address that, all right?

SERGEANT TYLER BURGESS

1 A. Yes.

2 Q. Likewise, over of the past year during
3 COVID we've been doing this a lot with Zoom. And
4 at times I'll tell you that we may freeze.
5 You'll see the screen and we for lack of a better
6 word, freeze.

7 At that point I would just suggest you
8 stop answering, wait for the technical difficulty
9 to work out, and then I'll likely re-ask the
10 question or we'll go from there, okay?

11 A. Okay.

12 Q. As an officer you've testified in court,
13 likely, on numerous occasions, right?

14 A. Yes.

15 Q. Have you ever given a deposition in a
16 civil matter?

17 A. Yes.

18 Q. Okay.

19 Do you want me to go over some
20 instructions or are you familiar with the
21 process?

22 A. I'm familiar but if you want to go over
23 them, that's fine.

24 Q. I don't have any need to.

SERGEANT TYLER BURGESS

1 But you understand that even though
2 we're here in an informal setting, the oath that
3 you just took has at same weight or meaning as if
4 you were in a courtroom before a judge and jury?

5 A. Yes.

6 Q. Sir, my understanding is that you are
7 appearing today as a Rule 30B witness, what I
8 refer to as a corporate designee on behalf of the
9 Pennsylvania State Police; is that correct?

10 A. Correct.

11 Q. And I just want to understand who you
12 are very briefly before we get into that. My
13 understanding is that between the period of 2014
14 approximately and approximately 2018 you were the
15 head of the policies and procedures unit of the
16 Bureau of Research and Development on behalf of
17 the Pennsylvania State Police; is that accurate?

18 A. Yes, it is.

19 Q. Okay. All right.

20 Is there a better word than head or
21 director?

22 A. Supervisor. I was a corporal then, so I
23 was a supervisor of that unit, yes.

24 Q. And just give me a general understanding

SERGEANT TYLER BURGESS

1 of what that unit did during that time frame?

2 A. Sure. Basically, developed new
3 policies, run procedures through revision,
4 rewrites, prepared any special orders that came
5 down from the front office or chief counsel's
6 office. Distributed and put it in the manuals,
7 our field regulation manuals or AR's, our OM's.
8 Again, reviewed, revised and completed
9 regulations for those manuals to go out to the
10 department.

11 Q. Okay. Understood.

12 In preparation for today's deposition
13 did you receive a list of topics?

14 A. Yes.

15 Q. Okay. All right.

16 MR. DIJIACOMO: Let's go off
17 the record for a second.

18 -----

19 (Whereupon, a discussion was
20 held off the record.)

21 -----

22 BY MR. DIJIACOMO:

23 Q. Back on the record.

24 Sergeant, do you know when the

SERGEANT TYLER BURGESS

1 Pennsylvania State Police first adopted a written
2 policy concerning the use of force for officers?

3 A. I don't know the exact date but I can
4 try to find out. It was prior to the year 2000.
5 You would have to archive that through the Bureau
6 of Research and Development to see when the exact
7 date that the first policy went into effect. So
8 21-plus years now.

9 Q. Understood. Okay.

10 Let me focus in now and I will tell you
11 otherwise but for most of my questioning I'm
12 focusing on the time frame of January 1st, 2014
13 through May 20th of 2017, okay?

14 A. Okay.

15 Q. I'll try to reiterate that as I ask
16 questions. But just as a --

17 A. What was the date again, just so that I
18 can --

19 Q. January 1st, 2014 through May 20th of
20 2017.

21 A. Okay.

22 Q. During that period of time did the
23 Pennsylvania State Police have a written policy
24 concerning the process to revise written policies

SERGEANT TYLER BURGESS

1 such as the use of force policy?

2 A. Was it revised?

3 Q. Let me say that again.

4 So during the period of 2014 through May
5 of 2017, did the Pennsylvania State Police have a
6 written policy for the process to revise, for
7 example, the use of force policy?

8 A. There is a process to revise
9 overregulation. The regulation revision started,
10 I believe, in 2016 of October to revise the use
11 of force policy.

12 Q. Okay. That's helpful.

13 Between January 1st of 2014 and -- did
14 you say October of 2016?

15 A. Yes.

16 Q. Were any revisions to the use of force
17 policy made?

18 A. No.

19 Q. Okay.

20 And between January of 2014 and that
21 October of 2016 date, was there any review of the
22 use of force policy towards revision?

23 MS. LE: Object to the form.

24 You can answer the question.

SERGEANT TYLER BURGESS

1 THE WITNESS: No, there was
2 not.

3 BY MR. DIJIACOMO:

4 Q. I received a policy that was marked as
5 "AR1-2" and labeled "Directives, Regulations and
6 Correspondence."

7 Are you familiar with that policy?

8 A. I am. I haven't looked it over in a
9 while but I guess I am.

10 Q. Is that the policy that would outline
11 the basic process for revisions to a written
12 policy such as the use of force policy?

13 A. That's the way it's supposed to be done,
14 yes. There's -- if I remember correctly, there's
15 a certain way revisions need to be done to a
16 regulation, there's a process that needs to be
17 used, and I think -- and I believe it states how
18 to make those changes within that certain
19 regulation.

20 Q. Okay.

21 And is the use of force policy
22 considered a regulation?

23 A. Yes.

24 Q. Okay. All right.

SERGEANT TYLER BURGESS

1 You said in October of 2016 the
2 Pennsylvania State Police began a process or a
3 review reviewing the use of force policy,
4 correct?

5 A. Correct.

6 Q. Would you describe how that process
7 proceeded?

8 A. It comes through our RA account, through
9 the bureau records, e-mail or it's sent down from
10 -- it could be a deputy or the colonel to the
11 major requesting the change or looking into the
12 change of a regulation. It gets sent down the
13 channel to the lieutenant and then to myself --
14 excuse me -- the lieutenant and then the sergeant
15 then as a corporal I would either assign it to a
16 trooper or I'd handle it myself and make the
17 revision.

18 Q. In October of 2016 were particular
19 revisions directed to be made?

20 A. Yes, in regards to that regulation, yes.

21 Q. Okay.

22 To put it differently, was the bureau
23 directed to -- was your unit directed to perform
24 a general review of the entire policy?

SERGEANT TYLER BURGESS

1 A. No.

2 Q. Okay.

3 Do you recall the topics that the
4 revision concerned?

5 A. I recall the taser had to be renamed
6 from ECD -- I think it was from ECD to CEW, what
7 it's currently now. And some minor grammar, some
8 little changes, and, I think, a couple of
9 definitions were added in the beginning to the
10 regulation.

11 Q. Were any revisions that were directed in
12 October of 2016 not adopted?

13 A. Not that I recall, no.

14 Q. Okay.

15 So is it fair to say I could essentially
16 review the two documents next to each other to
17 review and see what those revisions were directed
18 as of October of 2016?

19 A. Yes.

20 Q. When did that -- the revisions that were
21 directed to be made in October of 2016, when were
22 they implemented?

23 A. Whatever -- I believe it was
24 August 23rd, 2017. So that would be all those

SERGEANT TYLER BURGESS

1 revisions would be when that was -- that
2 effective date.

3 Q. Okay.

4 Is there a given department or a unit
5 that reviews essentially new guidance from the
6 courts on a regular basis to ensure that the use
7 of force policy remains constitutional?

8 A. Yes.

9 Q. What unit would that be?

10 A. It would be the chief counsel's office
11 would have to review that and let our unit know,
12 hey, there's an issue with the policy or the way
13 it's worded. It also needs to be signed off by
14 our CALEA accreditation.

15 Q. What is that accreditation?

16 A. That's for an ESP so we get our credit,
17 it's CALEA, C-A-L-E-A.

18 -----

19 (Whereupon, a discussion was
20 held off the record at this time.)

21 -----

22 BY MR. DIJACOMO:

23 Q. Does that stand for something?

24 A. Yes. I don't remember what it stands

SERGEANT TYLER BURGESS

1 for. Commonwealth -- I don't remember.

2 MS. LE: It stands for the
3 Commission on Accreditation for Law
4 Enforcement Agencies.

5 BY MR. DIJIACOMO

6 Q. Is that a nationwide accreditation
7 organization?

8 A. Yes.

9 Q. Are you aware of that organization --
10 let me rephrase that.

11 Was the use of force policy that was in
12 place, I think, from 2011 until 2017, was that
13 accredited by t his organization?

14 A. I don't know.

15 Q. Do you know whether the subsequent use
16 of force policy was accredited by this
17 organization?

18 A. From 2017?

19 Q. Yes.

20 A. Yes, it was.

21 Q. Okay.

22 Did that organization have various
23 levels of accreditation?

24 A. No.

SERGEANT TYLER BURGESS

1 When I say "accreditation," it's a
2 civilian that looks up the CALEA, however they
3 look it up in their database and then they can
4 sign off of it. We don't get in contact with
5 CALEA. There's a civilian that works in the
6 Bureau of Research and Development, the site of
7 the CALEA department or unit, I should say.

8 Q. But that organization provides, for
9 whatever purpose, approval of the policy?

10 A. Yes.

11 Q. And that organization approved the
12 policies that was put in place in 2017?

13 A. Yes. There was no conflicts.

14 Q. Okay.

15 Are you aware of any instance between
16 2014 and -- let me rephrase that.

17 The policy that was prior to the policy
18 adoption in August of 2017, are you aware of any
19 instance in which chief counsel's office
20 suggested the use of force policy was not with
21 the then current law?

22 A. No.

23 Q. Okay.

24 Are you aware of any review by the

SERGEANT TYLER BURGESS

1 Pennsylvania State Police concerning the use of
2 force policy being compliant with the Americans
3 with Disabilities Act?

4 A. No.

5 Q. Are you aware of any action the
6 Pennsylvania State Police took between
7 January 1st of 2014 and May 20th, 2017, to ensure
8 the then current use of force policy met
9 constitutional requirements pertaining to
10 individuals displaying suicidal ideation?

11 A. No.

12 Q. Did the Pennsylvania State Police take
13 any actions between or prior to May 20th, 2017,
14 to ensure that the use of force policy then in
15 place did not discriminate against individuals
16 displaying suicidal ideation?

17 A. I don't recall whether something was
18 sent out by e-mail.

19 Q. And when you say "Whether something was
20 sent out by e-mail," what do you mean? Who would
21 send it and what --

22 A. It depends. It could be a deputy of
23 operations, a deputy of admin would have said
24 something about it. But I don't recall anything

SERGEANT TYLER BURGESS

1 ever being sent out between that time frame
2 regarding this regulation.

3 Q. As of May of 2017 the then current use
4 of force policy allowed an officer to use less
5 than lethal force in preventing a suicide,
6 correct?

7 A. Yes.

8 Q. Okay.

9 Was there any policy in place that
10 concerned how that officer should approach or
11 interact with an individual threatening suicide?

12 MS. LE: Objection to the form.

13 I'm going to say that the policy
14 speaks for itself. This witness wasn't
15 designated to speak to the specifics of the
16 policy.

17 You can answer but this is not -- I
18 wouldn't consider that this witness is
19 somebody who is an expert on what the policy
20 does or doesn't say. The witness was
21 designated to discuss the revisions to the
22 policy and mechanics of that, et cetera.

23 I'm fine with the witness answering, but I'm
24 putting that caveat on the question.

SERGEANT TYLER BURGESS

1 MR. DIJIACOMO: Kathy, I'm just
2 wondering, is this witness for topic number
3 7 or did I misunderstand the e-mail?

4 MS. LE: Let me read that,
5 number 7 again. Maybe I'm misunderstanding
6 your question.

7 The use of force policy's
8 interactions with any other policies -- I
9 guess I'm not -- I don't understand -- I may
10 have misunderstood your question. It
11 doesn't seem to fall under this category.
12 But I'm fine with you proceeding.

13 I'm just you know, I'm putting it
14 out there.

15 Why don't we proceed and then let's
16 see where it goes?

17 MR. DIJIACOMO: Okay. All
18 right.

19 BY MR. DIJIACOMO:

20 Q. Sir, I'm trying to understand the realm
21 of policies that are in place essentially as of
22 May 20th, 2017.

23 And in reviewing the use of force
24 policy, it seems to me it pertains to the instant

SERGEANT TYLER BURGESS

1 which an officer needs to decide whether to use
2 lethal force.

3 Is that fair?

4 A. It depends on the incident or the
5 totality of the circumstance.

6 Q. Is there any, to your knowledge, is
7 there any policy that was in place on May 20th,
8 2017 that concerned an officer's interaction or
9 approach to an individual displaying suicidal
10 ideation or threatening suicide?

11 A. No.

12 Q. Okay.

13 Other than the revisions that were
14 directed in October of 2016, did the Bureau of
15 Research and Development receive any other
16 internally-proposed revisions to the use of force
17 policy?

18 A. I don't recall. Like I said, there was
19 a definition, a re-definition that was added,
20 maybe some grammar. I don't recall all of the
21 revisions that were made. I don't know if that
22 was really a whole rewrite, maybe just a quick
23 edit. I don't recall.

24 Q. With setting aside those edits or

SERGEANT TYLER BURGESS

1 revisions that were instructed to be made in
2 October of 2016, were there any other proposals
3 for revisions made by any other internal unit
4 between, let's say, January 1st, 2014 and May of
5 2017?

6 A. I don't remember. I think I reached out
7 to the Bureau of Training and Education, the
8 major there to implement -- to see if he had any
9 changes that he wanted to make within the
10 regulation. I don't remember what his -- at the
11 time. I think he's retired now. I don't
12 remember what his situation was. I think there's
13 an e-mail on it.

14 Q. Do you recall the individual's name?

15 A. I believe it was Major White.

16 Q. But he's retired at this point?

17 A. Yes.

18 Q. So if an external party, a citizen, a
19 citizen group, a nonprofit group wanted to
20 propose a revision or change to the use of force
21 policy, would the Bureau of Research and
22 Development receive that proposal?

23 A. Directly from them?

24 Q. Well, I suppose, let's start with that.

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1 A. No.

2 Q. Okay.

3 If an organization or a citizen, a
4 nonprofit group wanted to propose a revision, who
5 would they submit it to within the Pennsylvania
6 State Police?

7 A. One of the deputies or the colonel.

8 Q. Then that individual would decide how to
9 act and whether to direct you to do something?

10 A. He or she would then talk with the major
11 of research and development, and then obviously,
12 concur whether they talk with the office of chief
13 counsel as well.

14 Q. Did the Pennsylvania State Police
15 receive any external proposals for revisions to
16 the use of force policy as it pertains to
17 individuals with suicidal ideations prior to May
18 20th, 2017?

19 A. Not that I'm aware of.

20 MR. DIJIACOMO: All right.

21 Give me just a few moments.

22 -----

23 (Whereupon, a brief recess took
24 place at this time.)

SERGEANT TYLER BURGESS

1 -----

2 BY MR. DIJIACOMO:

3 Q. Did the Bureau of Research and
4 Development perform any review or research
5 concerning the use of force policy following an
6 officer-involved shooting?

7 A. While I was there we have not.

8 Q. Okay.

9 MS. LE: And let me suggest --
10 I think I made a mistake when I designated
11 the witness.

12 Let me suggest that any questions
13 you have specific to the officer-involved
14 shooting and potential revisions, you ask
15 the second witness who was in the Bureau of
16 Training and Education on the use of force
17 unit which would have been more involved in
18 the mechanics whereas the unit, the policy
19 unit drives the actual revision, but in
20 terms of the specifics of the policy and
21 review and things like that, the Bureau of
22 Training and Education is a co-owner of this
23 process.

24 Do you see what I'm saying?

SERGEANT TYLER BURGESS

1 MR. DIJIACOMO: Yes. Thank
2 you, Kathy.

3 MS. LE: Yes.

4 MR. DIJIACOMO: Sergeant, I am
5 done.

6 Thank you for your time this
7 morning.

8 THE WITNESS: You're very
9 welcome.

10 MS. LE: Thank you, Sergeant
11 Burgess.

12 THE WITNESS: You're welcome.

13

14 -----

15 (Whereupon, the deposition was
16 adjourned at 10:40 a.m.)

17 -----

18

19

20

21

22

23

24

SERGEANT TYLER BURGESS

1 CERTIFICATION

2
3
4 I HEREBY CERTIFY that the
5 proceedings and evidence are contained fully
6 and accurately in the stenographic notes
7 taken by me upon the foregoing matter on
8 Wednesday, May 19, 2021, and that this is a
9 correct transcript of same.
10

11
12
13
14
15 CHARLES P. CARMODY
16 Federally Approved
17 Registered Professional
18 Reporter and Notary Public
19

20
21 (The foregoing certification
22 of this transcript does not
23 apply to any reproduction of
24 the same by any means,
unless under the direct
control and/or supervision
of the certifying reporter.)

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EXHIBIT 5

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANGELO ARDO, et al., :
 :
 Plaintiffs, :
 :
 :
 vs. :
 :
 :
OFFICER EDDIE PAGAN, :
et al., :
 :
 :
 Defendants. : NO. 15-05217

Remote video conference deposition of
CORPORAL KEVIN SELVERIAN, taken on Wednesday, May 19,
2021, beginning at approximately 11:00 a.m., before
Charles P. Carmody, Federally Approved Registered
Professional Reporter and Notary Public.

- - -

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CORPORAL KEVIN SELVERIAN

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2
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CORPORAL KEVIN SELVERIAN

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WITNESS

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Examination by Mr. DiJiacomo

7

EXHIBITS

NUMBER

DESCRIPTION

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(None marked.)

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3

4 DIRECTION TO WITNESS NOT TO ANSWER

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6 -none- -none-

7

REQUEST FOR PRODUCTION OF DOCUMENTS

8

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-none- -none- -none-

10

11 STIPULATIONS

12 Page Line

13 -none- -none-

14

QUESTIONS MARKED

15

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-none- -none-

17

18

19

20

21

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24

CORPORAL KEVIN SELVERIAN

1 -----
2 PROCEEDINGS
3 -----

4
5 Counsel, I have a brief statement
6 that I ask you to acknowledge before
7 swearing in the witness.

8 The attorneys participating in this
9 proceeding acknowledge that I am not
10 physically present with the witness and that
11 I would be reporting this proceeding
12 remotely.

13 They further acknowledge that in
14 lieu of an oath administered in person, the
15 witness will verbally declare that his or
16 her testimony in this matter is under
17 penalty of perjury.

18 The parties and their counsel you
19 consent to this arrangement and waive any
20 observations at this time or in the future
21 to this manner of reporting and swearing in
22 the witness.

23 They also acknowledge and agree that
24 the official transcript is solely the one

CORPORAL KEVIN SELVERIAN

1 transcribed by the the court reporter.

2 Counsel, please indicate your
3 agreement by stating your name and your
4 agreement on the the the record.

5 MR. DIJIACOMO: This is
6 plaintiff's counsel, Anthony DiJiacomo,
7 agreed.

8 MS. LE: This is Kathy Le,
9 counsel for defendant, I agree.

10 -----

11 (Whereupon, a discussion was
12 held off the record at this time.)

13 -----

14
15 It is hereby stipulated by and
16 between counsel that the reading, signing,
17 sealing, certification and filing are waived, and
18 that all objections, except as to the form of the
19 question, are reserved until the time of trial.

20

21 CORPORAL KEVIN SELVERIAN,
22 having been first duly sworn, was examined
23 and testified as follows:

24

CORPORAL KEVIN SELVERIAN

1

2

EXAMINATION

3

4

5 BY MR. DIJIACOMO:

6

Q. Good morning, corporal. My name is
Anthony DiJiacomo and I represent Angelo Ardo and
Jean Monaghan in a suit against two officers and
the Pennsylvania State Police.

10

Can you hear me okay so far?

11

A. Yes, yes, I think so. Everything's
fine.

12

13

Q. All right. Good.

14

Unfortunately, I'll tell you that
there's a cleaning lady here vacuuming at the
moment. So if it gets too loud, just let me
know, all right?

17

18

A. Yes, sir.

19

Q. Sir, as an officer you've testified in
court on a number of occasions?

20

21

A. Yes, sir.

22

Q. Have you ever testified in a civil
proceeding before?

23

24

A. Yes, I have.

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1 Q. So you're familiar with the process?

2 A. Yes, sir.

3 Q. Let me just ask then, even though we're
4 here in an informal setting, you understand that
5 the oath that you just took has the same weight
6 or meaning as if you were in a courtroom before a
7 judge and a jury?

8 A. Yes, sir, I understand.

9 Q. And you're appearing today as a Rule 30B
10 witness on behalf of the Pennsylvania State
11 Police, correct?

12 A. That is correct.

13 Q. Before I delve into the questions I just
14 want to understand very briefly.

15 A. Yes, sir.

16 Q. My understanding is that I believe
17 you're currently a member of the use of force
18 unit of the Bureau of Training and Education.

19 Is that accurate?

20 A. That is correct.

21 Q. How long have you been a member?

22 A. I'm a member of the department or as a
23 member of the unit?

24 Q. Of the use of force unit?

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1 A. Since 2016. That's when the unit was
2 started.

3 Q. All right. Excellent.

4 Would you just give me a brief overview
5 of what that unit does?

6 A. Sure. Our unit develops use of force
7 instruction for both our cadets as well as our
8 inservice personnel, inservice personnel being
9 those members of the department that are already
10 out there doing the job. Everybody that's on the
11 job as far as the department is concerned.

12 So we developed use of force trainings.
13 We've reviewed existing use of force trainings
14 that may need revisions or review or some type of
15 change or alteration due to new equipment, new
16 technique, new tactic, those sorts of things. We
17 review the use of force policy as far as the
18 department is concerned. We will provide
19 suggestive language to policy if that, in fact,
20 becomes necessary.

21 We do analysis work. So if an outside
22 entity such as the district attorney's office or
23 the attorney general's office or a municipal
24 police agency has questions, concerns, or they

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1 require an analysis relative to a use of force
2 event. We will provide them a comprehensive
3 analysis if, again, our chain of command approves
4 us to do so.

5 So again, we do analysis work. We do
6 presentations to, obviously, our membership as
7 far as our cadets are inservice personnel. We do
8 presentations for civilian organizations as well
9 to better educate them concerning the realities
10 of the use of force events involving police
11 officers. We do presentations at various
12 seminars and conferences relative to
13 professionals in the realm of law enforcement.

14 We do presentations for various legal
15 groups and legal communities. For example, I've
16 spoken at the district attorney's conference for
17 their civil and criminal litigation units. We've
18 presented at For Science Institute which is a
19 private organization that provides instruction
20 relative to the human factor surrounding a police
21 officer's application of force.

22 We provide presentations to, for
23 example, to the district attorney's association
24 in the Commonwealth of Pennsylvania. We've

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1 provided presentations to members of the
2 Pennsylvania House of Representatives as well as
3 the Pennsylvania Senate, members of the senate as
4 well. We have, again, provided testimony, for
5 example, relative to use of force issues before
6 the Pennsylvania Senate Judiciary Committee for
7 example.

8 So our role is rather diverse. I think
9 the easiest way to describe what we do is we
10 provide consultation services to folks inside and
11 outside the realm of law enforcement to help them
12 better understand, again, the realities
13 surrounding a police use of force event.

14 Q. Excellent. Okay.

15 Sir, I think your testimony would be
16 helpful, at least from my understanding. So
17 thank you.

18 During those review processes does the
19 Bureau of Training and Education review prior use
20 of force events within the department in
21 determining whether further education or changes
22 to education are necessary?

23 A. That's somewhat of a broad response. I
24 have somewhat of a broad response, I guess. It

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1 can come in many ways.

2 If for example, there's an incident
3 involving one of our members where someone within
4 the department has concern or question or needs
5 guidance relative to that which occurred. For
6 example, does it fall in line with policy? Are
7 the tactics sound? Is the equipment that we
8 utilize in that particular event, is it adequate
9 or do we need to look at, you know, bettering or
10 again altering the equipment that we carry or
11 use. Those sorts of concerns can come from a
12 multitude of different sources.

13 For example, those questions or those
14 inquiries can come from our commissioner's
15 office. They can come from the criminal
16 investigators that are doing the criminal
17 investigation of a significant use of force
18 event. They can come from our internal affairs
19 division if again they have question or concern
20 relative to an officer's training or anything
21 related to their applications of force. They
22 come from our risk management office within,
23 again, our Bureau of Integrity and Professional
24 Responsibility. They can come from the office of

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1 chief counsel, the attorneys that represent the
2 department.

3 So the source of those questions and the
4 source of those reviews that you're citing
5 typically come as a matter of request. And
6 again, those requests are made by individuals
7 that do, in fact, have those questions relative
8 to these incidents.

9 Q. In the absence of a request there would
10 be no automatic review of an officer-involved
11 shooting to determine whether any educational
12 materials would need to be changed?

13 A. By our unit in particular, is that your
14 question?

15 Q. Yes.

16 A. So, again, in a significance use of
17 force event, obviously, the first inquiry is
18 going to be the criminal investigative inquiry.
19 So that's going to be conducted by criminal
20 investigators, you know, in our various troops
21 located throughout the state. Once that
22 investigation is conducted and done, and
23 typically, following a prosecutorial decision on
24 the part of the district attorney or attorney

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1 general that's, again, reviewing the case, our
2 internal investigation or administrative
3 investigation is put forth with full force.

4 Once that administrative investigation
5 is done, a period of time later, there is, again,
6 a critique conducted by our office of risk
7 management, and as part and parcel with that
8 critique we take part in that critique to address
9 anything relative to a training issue, an
10 equipment issue, anything that be would of
11 concern for the Bureau of Training and Education.
12 Again, those things are addressed then.

13 However, typically, in my experience as
14 these investigations unfold, if there is
15 something glaring, if there's something obvious,
16 if there's something of, you know, primary or
17 paramount concern that arises during the course
18 of either of those two investigations, either the
19 criminal or the administrative, we're made aware
20 of it then, and, again, we start to talk about
21 it, address it, see if it actually is a concern,
22 and if it is, what remedies might need to be put
23 in place, those sorts of things.

24 Q. Between the period that the use of force

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1 unit at the bureau was created on May 20th of
2 2017, was there any questions, concerns posed to
3 that unit concerning the use of force policy as
4 it pertained to individuals with suicidal
5 ideation?

6 A. No, sir.

7 I mean, that is always a concern dealing
8 with people with a suicidal ideation. It's been
9 part a training in our training program for a
10 long, long period of time.

11 And I think it's important that we
12 understand or that we talk about the fact that
13 our use of force policy is pertinent to any
14 segment of the population. So again, it requires
15 that we use reasonable force based upon the
16 totality known by the officer at the time of
17 application. Excuse me -- digestion of that
18 information, assessment of that information, all
19 of that is part and parcel with our training
20 programs.

21 So how is that being interpreted, what
22 sort of time periods do we have to interpret
23 those things, what sorts of opportunities do we
24 have to employ various tactics, those fall

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1 primarily within the training room. The policy
2 itself requires that we use reasonable force at
3 any and all times in an effort to perform our
4 lawful or legal duties. Again, that singular
5 standard is applicable to any segment of the
6 population, race, color, creed, sex, sexual
7 orientation, all those sorts of things.
8 Therefore, again, the policy applies to all those
9 things. And again, particularities are relative,
10 you know, certain segments of the population or
11 certain tactics that one may want to employ, they
12 generally fall within the training program
13 itself.

14 Q. And the use of force policy as it
15 existed on May 20th, 2017, specifically allowed
16 for the purpose of preventing suicide with less
17 than lethal force, correct?

18 A. It allows for it. So our policy in that
19 particular regard is separated into two distinct
20 sections. It talks about the use of deadly
21 force. It talks about the use of less lethal
22 force. Less lethal force being force which under
23 the circumstance in which it's used, is not
24 likely calculated nor intended to cause death or

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1 serious bodily injury.

2 So when we're talking about the
3 specifics relative to a less lethal force option,
4 for example, we are authorized in its use to,
5 again, control an individual, stabilize an event,
6 prevent somebody from doing significant harm to
7 oneself, yes, it does it authorize it in that
8 regard.

9 To extend it over to the deadly force
10 side in a circumstance in which we're going to
11 use deadly force, we need to look at whether or
12 not the actions of the subject pose a threat of
13 death or serious bodily injury either to the
14 officer and/or somebody else other than the
15 subject themselves. And again, that again is the
16 separation between deadly force and less lethal
17 force, I think, in the situations that you're
18 describing.

19 So again, if some of these actions --
20 again, I don't want to say no matter the actions,
21 but generally, if somebody's actions pose a
22 threat of death or serious bodily injury to an
23 officer or some other person, well, then again,
24 you know, generally, our policy authorizes the

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1 use of deadly force to prevent that particular
2 behavior to immediately incapacitate the
3 individual, to stop the action of the subject to
4 hopefully render the scene safe and allow us to
5 move on further with that which we need to do.

6 Q. And when it comes to the use of deadly
7 force, it appears that it's broken down to two
8 further areas?

9 A. Yes.

10 Q. For the purpose of arrest or for the
11 purpose of protection?

12 A. Correct.

13 So for purposes of arrest we are
14 authorized to use deadly force. If it's
15 necessary to prevent or to execute an arrest or
16 prevent the escape of an individual, if there's a
17 reasonable belief on the part of the officer that
18 it's necessary. And in conjunction with that the
19 person either committed or attempted a forceable
20 felony, or is fleeing or attempting to escape
21 while in possession of a weapon, or otherwise
22 indicates that human beings or human life or
23 inflicts serious bodily injury and was arrested
24 without delay.

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1 So again, that's the arrest section. So
2 it's all predicated upon that same reasonable
3 belief that it's necessary and it still
4 ultimately surrounds whether or not that person
5 poses a threat of death or serious bodily injury
6 to, again, the officer or somebody else.

7 And another way to look at that and the
8 way we explain it is, you know, do you have, for
9 example, the requisite probable cause and/or,
10 "Reasonable belief," to believe that that threat,
11 in fact, exists understanding that police
12 officers don't always have a crystal ball and we
13 can't see into the future. We need to take those
14 limited facts in the times and environments that
15 we find ourselves in and make those discernments
16 or decisions based upon whether or not there's a
17 reasonable belief, again, that that threat, in
18 fact, exists.

19 Q. And with regards to the arrest portion
20 of the deadly use of force --

21 A. Yes.

22 Q. The threat to other individuals --

23 A. Yes.

24 Q. Is there a given time horizon for that?

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1 A. Could you repeat that, sir? I'm sorry.

2 Q. Yes.

3 I'm trying to understand the time
4 horizon for that. Meaning, is it the threat of
5 immediate -- was it the immediate threat of harm
6 to others or the officers, is it a proximity
7 question, is there a time limitation on it?

8 A. There's no specific time as far as one
9 minute, two minutes, five minutes, an hour, an
10 hour and a half, no, sir. Again, it's all based
11 upon would it be reasonable to believe that that
12 threat is, in fact, imminent.

13 Again, "imminent" is the term utilized
14 within our department policy when it comes to
15 deadly force. It doesn't, in fact, need to be
16 present at that particular exact or precise
17 moment.

18 However, based upon an officer's
19 training, experience, perception, discernment of
20 information, the surrounding circumstances, all
21 of that, again, which that officer knew, and
22 predicated some limitations maybe in regard to
23 the environment, does the police officer believe
24 that the threat is, in fact, imminent is the

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1 ultimate question and the ultimate factor when
2 looking at whether or not their force would be
3 appropriate more specifically in line with
4 policy.

5 Q. Okay.

6 Going to the protection subcategory, if
7 you would.

8 A. Yes, sir.

9 Q. It obviously allows an officer to use
10 deadly force to protect himself or another
11 officer or bystanders; is that fair?

12 A. That's correct.

13 Q. Okay.

14 Is there any training provided to
15 officers about putting themselves in this fear of
16 danger prior to placing themselves there?

17 In other words, in a situation where
18 there are not bystanders, hostages, you have a
19 suicidal individual threatening suicide or
20 threatening harm to other officers, is there any
21 guidance provided to those officers about how to
22 approach or interact with that -- I'm sorry --
23 with that suicidal individual prior to placing
24 themselves into that sphere or area of harm?

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1 A. I would say that we provide general
2 guidance or consideration or recommendations, if
3 you want to call it that, as part of our training
4 process.

5 So in other words, anything that we do
6 in regards to our contact with an individual,
7 there's always going to be goal conflict, if you
8 want to look at it that way -- to make sure that
9 we are, you know, in essence, you know, safe, you
10 know, to the maximum or to its ultimate, you
11 know, possibility, let's say it that way.

12 You know, obviously, we wouldn't need to
13 approach anybody out there in the public or we
14 shouldn't, for example, but yet, we have to.

15 So as we move forward in the performance
16 of our duties, we try to alert our folks to
17 dangers, circumstances or tactics that might best
18 allow them to maintain as much safety as they
19 possibly can for themselves and others but yet
20 still perform the duties that they're assigned or
21 the tasks that they need to take care of. I
22 understand that there's no textbook, there's no,
23 you know, systematic approach to some of these
24 circumstances.

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1 Again, it's understanding how certain
2 tactics can benefit you in your attempts to
3 achieve certain lawful purposes. But again, at
4 the end of the day it's a matter of, you know,
5 recognizing based upon the specifics of this
6 incident what would be, you know, the best tactic
7 based upon the information I have at this moment
8 in time to, again, achieve the ultimate, you
9 know, goal which may be taking a person into
10 custody, stabilizing the situation, whatever the
11 goal might be at that particular moment in time.

12 Q. Let me digest that for a second.

13 A. Sure.

14 -----

15 (Whereupon, a discussion was
16 held off the record at this time.)

17 -----

18 BY MR. DIJIACOMO

19 Q. That guidance provided to officers since
20 the use of force unit was created, would that
21 have been for inservice members provided through
22 annual trainings?

23 A. Yes, sir.

24 And again, what we do during the

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1 inservice trainings is we try to, you know,
2 reinforce some basic tactics. We review the
3 legality of what they're authorized or not
4 authorized to do.

5 So it allows an opportunity -- provides
6 us an opportunity to reinforce existing teachings
7 and in cases provide some new teachings or some,
8 you know, tactics, techniques, practices that
9 they might not otherwise have been exposed to
10 during their basic training period or during
11 their basic training itself.

12 So again, I'm not quite sure that I
13 understand your question, but the inservice
14 program serves as a platform for us to review
15 some things, expose our membership to some new
16 things perhaps. But we are always in the
17 scenario-based trainings example that we provide,
18 you know, trying to reinforce sound tactics based
19 upon the scenarios that we create for our
20 membership during the course of those exercises.

21 Q. Are other -- are units other than the
22 use of force unit involved in repairing the
23 materials or the scenarios or education materials
24 for the annual inservice training?

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1 A. Yes, sir.

2 So again, traditionally, prior to 2016,
3 or prior to 2016, yes. Our inservice unit --
4 there's an inservice unit within with the
5 academy, the Bureau of Training and Education
6 itself was responsible for compiling and putting
7 that training together. But again, the source of
8 the material for a lot of those trainings was
9 drawn from and has been drawn from various
10 entities within the department.

11 So again, if we're talking about a
12 particular subject where we need to rely on the
13 expertise of, you know, a particular department,
14 particular unit, a particular bureau outside of
15 the bureau within the department, then we're
16 going to rely on them for the source of
17 information. But they're members of the training
18 and education bureau, the ones that are going to
19 provide the training for the most part.

20 Q. Are you familiar with the scenarios that
21 were used between 2016, I suppose, and prior to
22 May 20th, 2017, in the inservice training?

23 A. Yes, sir.

24 Q. Did any of those scenarios involve

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1 individuals with suicidal ideation?

2 A. Yes, sir.

3 Q. Would you describe those scenarios?

4 A. The one scenario, as I recall, was a
5 scenario in which our officers were to respond to
6 a residence. They were told of an individual in
7 crisis or who may have been in crisis, was
8 located within a room within the residence and
9 they had to speak to him, attempt to utilize
10 crisis intervention technique or tactical
11 communication.

12 However, ultimately, during the course
13 of that scenario, the role player accessed a
14 weapon and based upon the instruction given to
15 the role player our membership would employ
16 simulated deadly force upon that individual in
17 order to stop the, again, the significant threat
18 posed by the role player or the simulated subject
19 in that circumstance.

20 Q. And in that circumstance the individual
21 with suicidal ideations, is that individual with
22 any hostages or bystanders in that room?

23 A. In that circumstance, no.

24 And just to clarify, the suicidal

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1 ideation, again, as far as my memory serves me at
2 this particular moment in time, it wasn't, I
3 don't think, specified as suicidal ideation. It
4 was more along the lines of that person was
5 suffering from a crisis-type of event,
6 potentially, some sort of mental health issue.

7 But again, what's important to recognize
8 is that --

9 Excuse me one second. I lost my train
10 of thought.

11 What's important to recognize at that
12 moment in time or with that scenario is the fact
13 that what we teach our folks is that ultimately
14 in many of these circumstances they are not
15 qualified nor do they have the time or
16 opportunity to diagnose the circumstance or
17 diagnose the individual. You know, they look for
18 things such as rational versus irrational
19 behavior, signs and symptoms potentially of
20 somebody suffering from some sort of mental
21 health issue.

22 All of those things fall within the
23 category of crisis. So crisis generally
24 represented by periods or behaviors that one

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1 would deem irrational, whereas conflict events
2 typically are more geared towards a circumstance
3 in which you would confront somebody who appears
4 to be rational but who is just choosing not to
5 obey or comply with the commands or the
6 instructions or, you know, the express desires of
7 the police officer.

8 So again, it is my -- as far as my
9 recollection is concerned that situation was
10 designed to reflect an individual who was likely
11 suffering from some sort of crisis event and I
12 would feel more comfortable categorizing it as a
13 crisis event versus suicidal ideation. And I
14 believe that the scenario that we're discussing
15 was part of our 2017 mandatory inservice
16 training.

17 So that was 2017, and typically, we
18 conduct our mandatory inservice trainings in the
19 fall.

20 Q. So again, I'm not quite sure as to
21 whether or not that would have come before
22 May 20th, was that the date that you referred to
23 before?

24 A. Yes.

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1 Q. Of that particular year?

2 A. Yeah.

3 Q. Okay.

4 You're getting ahead of me and I
5 appreciate it, and you answered a lot of my
6 questions.

7 So let me just confirm though, the
8 scenario we discussed would have been provided in
9 the fall of 2017?

10 A. Yes, sir.

11 Q. And from a theoretical viewpoint, are
12 officers trained to identify credible threats of
13 suicide as a symptom of a crisis?

14 MS. LE: Objection to form.

15 You can answer if you understand the
16 question.

17 THE WITNESS: I don't.

18 So could you please kind of thin
19 that down for me, please?

20 BY MR. DIJIACOMO:

21 Q. We were talking about the inability of
22 an officer to diagnose an individual?

23 A. Yes, sir.

24 Q. From time and as well as training, I'm

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1 sure?

2 A. Yes, sir.

3 Q. But they're trained to recognize
4 rational versus irrational acts or statements,
5 correct?

6 A. Correct.

7 Q. And they're trained to look for certain
8 symptoms as well?

9 A. Yes, sir.

10 Q. Okay.

11 Are statements by an individual
12 threatening suicide, is that identified to
13 officers in those trainings as one of the
14 symptoms or one of the irrational signs that the
15 person's having a crisis?

16 A. Obviously, somebody expresses outwardly,
17 is that what you're saying, is that what you're
18 trying to ask?

19 Q. Yes. Verbally states?

20 A. If they verbally state and our officers
21 are aware of the statement that was made; is that
22 what you're asking?

23 Q. Yes.

24 A. Are they trained to consider that; is

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1 that what you're asking?

2 Q. Yes.

3 A. Yes.

4 Q. Okay.

5 I would think it's an obvious question,
6 but I'm not trying to make it reprehensible,
7 that's all.

8 A. I'm sorry. Maybe I just didn't
9 understand. I didn't know --

10 Q. It's fair to say that through the
11 training and experience that officers have they
12 would identify a verbalized statement of suicide,
13 an attempt to commit suicide to them as a sign
14 that the individual's in crisis?

15 A. Yes, sir.

16 I mean, again, if somebody expresses
17 that -- if somebody expresses outwardly that they
18 have a desire to significantly harm themselves,
19 yes, that would be an indicator of somebody
20 that's in crisis, yes.

21 Q. That's during the scenario that we were
22 talking about that was provided in the fall of
23 2017?

24 A. Yes, sir.

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1 Q. I think you mentioned -- and I don't
2 recall the exact words you used. Forgive me --
3 but that during the course of that action prior
4 to the individual, I believe, possessing or
5 presenting a firearm, they would use some type of
6 command techniques?

7 A. Yes, sir.

8 Q. Can you describe those command
9 techniques that they were trained on during that
10 scenario?

11 A. Again, sir, our training is relative to
12 verbal communication, command structures, all
13 those sorts of things are trainings that have
14 come throughout their career.

15 So it started in their basic training
16 program, continued through various exposures to
17 those issues during the, you know, the inservice
18 trainings that they attended during the course of
19 their career, whether that be a mandatory program
20 or a voluntary program outside of our program.

21 So they bring to bear obviously
22 everything that, you know, they have been trained
23 to do or have experienced and found to be
24 successful during their experiences, you know, to

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1 that point in their career.

2 So when you say, you know, what did we
3 train them to say in that circumstance, again,
4 we're watching and we're observing their behavior
5 to see, you know, how they found it and provide
6 them maybe with some constructive criticism or
7 reinforcement depending on how they respond in
8 those particular scenarios.

9 Q. Okay.

10 In the scenario in which an individual
11 is in a room in this house in crisis, whatever
12 that crisis may be, and he's potentially
13 possessing firearms, are the command techniques
14 being used for the purpose of deescalating the
15 situation?

16 A. Again, deescalation, I think it's
17 important that we kind of define that so we're
18 kind of on the same page. Deescalation is a
19 result or a goal as far as our teachings and as
20 far as which we reinforce. It is goal or result
21 and it's characterized by an intent or an effort
22 on the part of the officer to mitigate the nature
23 of force required to control the person and/or
24 stabilize the situation.

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1 So it's a goal or a result categorized
2 by the intent. Now, that goal or result is
3 always going to be significantly impacted by the
4 environment, time, distances, opportunities for,
5 you know, us to utilize various alternative
6 methods. And by "alternative methods" I mean,
7 medicines other than the use of deadly force, so
8 on and so forth.

9 But ultimately, the most impactful, you
10 know, the thing that's most impactful -- you
11 know, the thing that's most impactful upon
12 whether we can achieve that goal or not is always
13 going to be the level of a subject's cooperation
14 and/or resistance.

15 So to your point of as far as would a
16 command of "Put the gun down," you know, be a
17 deescalation technique? Well, it might be a
18 mitigation strategy insomuch as that he does, in
19 fact, comply with that command and put the gun
20 down, well, then we can move forward maybe with
21 some alternatives other than the use of deadly
22 force to control this individual, or again,
23 stabilize the event, or more specifically, you
24 know, stop a threat of death or serious bodily

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1 injury once that particular step towards that
2 particular end has been taken.

3 Q. In the scenario in the fall of 2017
4 we've been discussing, is there a gold standard
5 on how the officers should have approached the
6 room?

7 A. Is there a gold standard, sir? I'm
8 sorry.

9 Q. So let me back up.

10 When you're doing your scenario, you
11 briefed the officers on what they are aware of
12 before the scenario starts, correct?

13 A. We give them limited information which
14 more often than not replicates the nature of a
15 true event because, again, oftentimes, we are
16 provided limited information, bits of
17 information, we're often provided that
18 information by people who tend to be in an
19 emotional state of mind as far as concern, worry,
20 you know, anger, whatever the case may be.

21 So we try to replicate how the
22 information is provided and very often the
23 information provided is, in fact, limited.
24 Especially, when you compare it to that we

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1 guarded through hindsight after the event itself.

2 Q. Would you walk me through at the insight
3 training how a scenario would occur?

4 A. Sure.

5 Q. Meaning, starting from the classroom to
6 the critique?

7 A. Sure. So obviously, the scenario
8 begins. We have safety briefings. We make sure
9 that the role players, the instructors that are
10 conducting the students themselves are all
11 properly equipped with that which they need to
12 serve their role and function during the course
13 of the scenario.

14 So for example, the students are
15 provided with inert or simulated weaponry to,
16 again, ensure the safety, you know, of the
17 situation itself. The role players are provided
18 with the props or the inert weaponry or items or
19 whatever it is that the role player needs to,
20 again, satisfy the requirements of that which we
21 need them to do.

22 So we have safety briefings. We make
23 sure people are properly equipped and we have
24 staging areas where we will stage a class where

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1 they are to stand until it's their opportunity to
2 go through the scenario.

3 Once it's that officer's turn to go,
4 they would be taken from the staging area to the
5 training area itself. They will be provided a
6 quick briefing on the information that is being
7 provided to them. Once they have that
8 information they are told to engage in the
9 scenario.

10 Typically, the scenario will not be
11 stopped unless something of, you know, a
12 significant safety concern arises. So they go
13 through. They make their decisions in regards to
14 what they need to do. They respond and once the
15 circumstance is over, a ceasefire or a stop
16 exercise command is uttered by the primary
17 instructor.

18 Typically, they are given some sort of
19 critique in regards to their performance during
20 the course of the scenario itself. And then
21 they're dismissed to go back to the staging area
22 and perhaps await the next scenario or, you know,
23 await the final debriefing that we had with them,
24 you know, in an effort to make sure the teaching

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1 points are, you know, reinforced and then
2 obviously, they'd be dismissed for the day.

3 Q. Were you present for the critiques
4 provided to officers for that scenario in the
5 fall of 2017?

6 A. No, sir.

7 So it was our responsibility to put the
8 training together, but the training is actually
9 administered in five different locations
10 throughout the state. So we have regional
11 training centers at all four corners of the state
12 and we have our main academy in Hershey. The
13 trainings at the training center are given by the
14 instructors at those particular locations, and
15 the training at the academy is given by our
16 operational training unit there at the academy.

17 So to your specific question: Did I see
18 the critiques that were given?

19 I may have seen one or two as I visited
20 sites and just reviewed the process, but it
21 wasn't something that I saw on a daily basis.

22 So it's important to remember that we
23 have, you know, roughly 4,600 members, and this
24 mandatory inservice training is conducted over

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1 the period of typically several months. So, you
2 know, this is kind of a day in/day out endeavor
3 on the part of the instructors at those
4 locations. Again, it's somewhat of a very -- I
5 don't want to say "monumental," but a very --
6 conducted on a large scale.

7 Q. Understood. Okay.

8 With regards to the May 20th, 2017
9 incident, are you aware of any critiques from the
10 office of risk management concerning the policy?

11 A. No, sir. The critique was not conducted
12 in this case and that is a part of our
13 standardized practice that when there is a
14 litigation hold put on a particular incident, the
15 critique is typically not done until matters of
16 litigation have been complete.

17 Q. Understood. Okay.

18 Other than the scenario we discussed for
19 the fall of 2017 -- let me back up.

20 Did the use of force unit participate in
21 providing any scenarios for the inservice
22 training in 2016?

23 A. There was no scenario in -- so if you're
24 asking was there a replication or did a similar

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1 training evolution occur in 2016 as the one we're
2 describing in 2017?

3 Q. Yes.

4 A. Then the answer to that question is no.
5 There was not the same scenario-based training
6 conducted in 2016, if that's your question.

7 Q. And when you say, "the same
8 scenario-based training," are you referring to --
9 let me back up.

10 Was any scenario-based training provided
11 in 2016?

12 A. I would have to review my record. But
13 off the -- without my reviewing any sort of
14 training records at this moment in time, I don't
15 believe there was a scenario-based exercise as
16 part of 2016's mandatory inservice training.

17 Q. Okay.

18 Prior to 2016 for the inservice
19 mandatory training, were scenario-based exercises
20 performed?

21 A. We've conducted various practical
22 exercises that reinforce. As an example, in one
23 year, during one year of mandatory inservice
24 training there were practical exercises

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1 regarding, you know, response to active shooter
2 circumstances, for example. You know, there are
3 always practical exercises and drills conducted
4 relative to the application of less lethal
5 weaponry. For example, you know, where the
6 deployment of a taser or OC and those sorts of
7 things, not only to reinforce practices but
8 there's a recertification element that we need to
9 go through in order to make sure that our
10 membership is qualified and certified to carry
11 those particular things.

12 So again, it's an myriad of different
13 programs that are offered, you know, depending on
14 the year and depending on, you know, a need, a
15 recertification need, for example, or an express
16 needs by the department in any sort of way that
17 we need to address these practice, these
18 techniques, this information, this law, this
19 procedure, whatever the case might be.

20 So every year meetings are held to
21 determine what do we need to address or what
22 should we be addressing in, you know, for
23 example, this year's -- or mandatory inservice
24 program.

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1 Q. Prior to the 2017 inservice programming,
2 were any scenario-based training provided to
3 officers concerning situations in which an
4 individual would have been either in crisis or
5 verbalizing suicide without hostages?

6 A. So again, to your example or to the
7 example I gave you previously, you know, in some
8 of the active shooter scenarios that were part
9 our officers' mandatory type of events. Although
10 we have an active shooter situation, could we
11 conclude based upon limited bits of information
12 that that person was suffering from some sort of
13 crisis event. You know, those things, you know,
14 always play a part.

15 So, you know, to parse out individual --
16 categories of individuals, we're looking more for
17 identification of crisis versus conflict. Do you
18 have the time and opportunity to employ this
19 tactic versus this tactic. What would be most
20 prudent, reasonable thing at this moment in time
21 as far as your options are concerned.

22 You know, we spent a lot of time in the
23 basic training program, you know, exposing our
24 membership to, you know, various types of

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1 scenarios, you know, in different environments,
2 traffic stop environments, domestic environments,
3 you know, street contact environments, where, you
4 know, these assessments need to be made and
5 decisions need be, you know, put forth, that are,
6 in fact, reasonable that ultimately lead to
7 appropriate response.

8 So, you know, this is something that our
9 membership is exposed to throughout the course of
10 their career, and that's not to mention the fact
11 that they also have opportunity to voluntarily,
12 you know, sign up for other programs that would
13 address various aspects of use of force.

14 For example, you know, ground defense
15 classes, or you know, tactical shooting classes,
16 or, you know, vehicle stop tactic classes where,
17 you know, there's always going to be
18 scenario-based elements in those programs forcing
19 our folks to make decisions, you know, in rapidly
20 unfolding circumstances perhaps where, again,
21 they have to rely on their training and
22 experience to drive proper performance as far as
23 that which we would expect them to do.

24 Q. In the active shooter scenarios that

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1 officers are trained on prior to 2017, did those
2 scenarios always involve an active shooter with
3 risk to third parties?

4 A. I do not recall off the top of my head,
5 sir. I apologize.

6 We've conducted active shooter scenarios
7 as part of our MITP program which would have been
8 conducted through the Bureau of Training and
9 Education. And we've also conducted alternate
10 active shooting training programs that have been
11 formulated, put together and directed by our
12 bureau of emergency -- bureau of emergency and
13 special operations so they would be our version
14 of swat team members. We call them "Special
15 Emergency Response Teams."

16 So they have, again, executed trainings
17 in active shooting environments that have
18 certainly involved, you know, various
19 scenario-based exercises, but to speak to the
20 specificity of those programs, you know, I
21 wouldn't want to provide you with any information
22 based upon any sort of speculation.

23 Q. Generally speaking, for the -- are you
24 familiar with any of the active shooter scenarios

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1 that were provided prior to 2017?

2 A. Again, those provided by the cert
3 team -- again, I've seen them. And again, what's
4 important also to understand is that, you know,
5 various adjustments to scenarios might be based
6 upon certain student need or certain environment
7 parameters.

8 So to say that they gave everybody the
9 same scenario, again, that would not be my place
10 to say because, again, I don't know the internal
11 components of how they went about conducting
12 their training. I have seen it at various
13 locations, and in the ones that I have seen being
14 conducted, there were individuals that were
15 apparently suffering from crisis type events but
16 I don't -- again, I'm not in a position where I
17 can say that every member of the department got
18 those exact same scenarios because, again, I
19 wasn't part of the organization or execution of
20 those trainings.

21 Q. Are you aware of any trainings prior to
22 2017 in which the focus was on an individual
23 expressing suicidal ideations -- my purpose is --
24 the question I'm asking you is: Are you aware of

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1 any scenarios provided to officers in which the
2 focus was not on an active shooter where
3 bystanders are involved, but a shooter in which
4 the individual is alone and expressing suicidal
5 ideation?

6 A. We have conducted exercises and various
7 trainings, you know, throughout the course of my
8 time in the Bureau of Training and Education
9 where, you know, we dealt with multitudes of
10 issues, I think, relative to what you're saying.
11 For example, if we ever conducted an exercise
12 where perhaps a suicidal individual had
13 barricaded themselves inside a residence. And we
14 would talk about manners of approach and tactics
15 that need to be followed and certain policies
16 that drive, you know, our behaviors in those
17 particular regards.

18 Again, those trainings are a part of the
19 basic training program. They've been executed
20 at, you know, at various different, you know,
21 during various different training evolutions that
22 I've been to and seen and exposed and have taken
23 part of. So again, they are part and parcel with
24 the creation of a sound, you know, scenario-based

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1 program associated maybe with whatever it is
2 you're discussing.

3 For example, you know, we have high risk
4 response policies, you know, within the
5 department. And if you're trying to reinforce,
6 you know, a particular component of that policy,
7 well, then you may discuss in a classroom or you
8 may conduct an exercise that, you know,
9 reinforces, you know, the contents of those
10 policies through, you know, again, a practical
11 exercise, you know, conducted through dialog, you
12 know, tabletop exercise, you know, an outdoor
13 exercise.

14 So, you know, these things go on
15 regularly, you know, within the bureau as they
16 relate to, you know, a variety of different
17 classes or programs that we offer.

18 Q. Did those trainings -- were those
19 trainings provided prior to 2017 though or are
20 you talking currently?

21 A. No, they've been provided throughout the
22 time that I've been a member of this bureau. So
23 I've been a member of this bureau since 2003.

24 So I've seen, you know, and we've

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1 discussed that those issues be discussed and
2 trained and taught. And, you know, there are
3 many different training opportunities outside of
4 that mandatory inservice training program that we
5 were talking about.

6 And also, to provide a little more
7 clarification, I simply used that active shooter
8 training as an example. So they would all fall
9 within that same category of, you know, various
10 trainings we provide to our membership over the
11 years, to provide, you know, particular members
12 of the department with, you know, throughout the
13 years that I've seen where, you know, response to
14 these types of incidents are not only, you know,
15 taught in classroom environments, but you know,
16 scenario-based exercises are conducted in along
17 to, you know, reinforce those points.

18 Q. What is the MITP program?

19 A. The MITP is the mandatory inservice
20 training program.

21 Q. Got you. All right.

22 A. So I've been referring to them back and
23 forth. But they're the same thing, mandatory
24 inservice. So that is once a year every member

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1 of the department from the rank of trooper to the
2 rank of colonel, they must attend that one-day
3 training session once a year. And again, like I
4 said, it's conducted over a several-month time
5 period, but every member of the department must
6 attend that training that particular year, and
7 again, that's why obviously, the mandatory type.

8 Q. Got you. Okay.

9 MR. DIJIACOMO: Sir, I think
10 you're answered my questions.

11 THE WITNESS: Thank you.

12 MR. DIJIACOMO: You're welcome.

13 MS. LE: I don't have any
14 questions on redirect.

15 Thank you.

16 THE COURT REPORTER: Ms. Le, do
17 you want a copy of the transcript?

18 MS. LE: I do.

19 -----

20 (Whereupon, the deposition was
21 adjourned at 11:50 a.m.)

22 -----
23
24

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CERTIFICATION

I HEREBY CERTIFY that the
proceedings and evidence are contained fully
and accurately in the stenographic notes
taken by me upon the foregoing matter on
Wednesday, May 19, 2021, and that this is a
correct transcript of same.

CHARLES P. CARMODY
Federally Approved
Registered Professional
Reporter and Notary Public

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EXHIBIT 6

Jean Monaghan Interview



DEF0000264

Video Transcription

5/20/2017

Jean Monaghan

Smith: Ma'am, just have a seat.

Everk: You okay?

Monaghan: Hmm, hmm.

Smith: Ma'am, just so you know, this room is audio and visually recorded, okay.

Monaghan: Okay.

Everk: Do you have any questions before we start?

Monaghan: No.

Everk: Okay. We want to go back. Uh, talking to Trooper Smith about what happened, uh, I guess, when did he start to go downhill? Uh, was it his ex-girlfriend, maybe they broke up? Was that

Monaghan: That's when it started. When it escalated, throughout a couple weeks that she was gone.

Everk: Alright, ok.

Monaghan: And then the last week it was, it was overwhelming. He was just screaming and yelling.

Everk: He was never like that before?

Monaghan: No. I mean he had, I mean, I'll back up there. He's had issues for a long time with drug use. But this was the worst that I've ever seen him.

Everk: What was his drugs, that he, what was his drug of choice?

Monaghan: I think it was heroin.

Everk: Ok. Was he on anything else?

Monaghan: Well, he wa, as I mentioned, he did go to the clinic on a daily basis. A methadone clinic.

Everk: Ok.

Monaghan: New Directions.

Everk: Ok. Was he into pills or anything like that, with alcohol, or

Monaghan: There, he never drank alcohol, it was, it was pills. And, and I could tell right away if he took pills 'cause then he got, he got real angry and, and you know very agitated.

Video Transcription

5/20/2017

Jean Monaghan

Everk: Ok. And the drug use picked up over the last two months?

Monaghan: I, I would say it escalated, yeah.

Everk: Okay, and then

Monaghan: 'Cause he lost an awful lot of weight too, he was just all over the place.

Everk: Was he working at all?

Monaghan: Well, yeah he was, he worked on the farm. He's the one who kept the farm you know weed wacked and, um helped me there.

Everk: Is that ac, I mean across the street from you, where the horses are, is that yours too?

Monaghan: Yeah.

Everk: Ok, I didn't know. I wasn't sure if that was yours.

Monaghan: Hmm, hmm. We kept it together. We kept it well groomed.

Everk: Hmm, hmm. Now, as you said, it escalated within the last week:

Monaghan: Hmm, hmm.

Everk: What happened, do you think, changed his demeanor?

Monaghan: He was looking, he just had it in his head that I made an awful lot of money there, you know, on the farm collecting rents. But what he didn't realize was the expenses. That money came in but then the expenses went out and he just had it in head that I made a lot of money and it just wasn't that way. So, I paid him what I thought I could and um he just didn't think it was enough.

Everk: Did he, did he have any money, besides that saved or is he using it, was it

Monaghan: No, oh no.

Everk: He needed more money

Monaghan: The more money, the more money he got the worse he got.

Everk: To buy more drugs?

Monaghan: Yeah, so now, yeah, so now, you know he, he was expecting a settlement 'cause he, cause somebody hit him with a car, uh damaged his car and he was put in the hospital so he's waiting, he was waiting for a settlement you know and it was, and it's slow coming. I don't know, I don't what happens now.

Video Transcription

5/20/2017

Jean Monaghan

Everk: Hmm, hmm.

Smith: Do you know where that collision happened?

Monaghan: On, on, uh, I think it's Broadhead Road there. Um, coming out of the clinic, coming, coming, if you turned right and, and was headed down toward 191.

Everk: Okay.

Monaghan: It happened somewhere in there.

Everk: And how long ago was that?

Monaghan: Probably a year.

Everk: Okay, and what was injured during that?

Monaghan: Wow, he had, he had surgery on his leg. Um, he was all bruised up, and um.

Smith: So, he was on the medications for pain too, right then,

Monaghan: Yeah,

Smith: from the hospital, the doctors?

Monaghan: hmm, hmm

Everk: And what medication was that?

Monaghan: I don't, don't know.

Everk: Did he bang his head too, during that?

Monaghan: He did. Um, you know he had, he had lacerations on his head. He had um, he, uh, they had to um reinforce his knee so they had to have, uh, he had to have surgery on that.

Everk: And that, the, the car that he had at the house, that's his car?

Monaghan: That's his car. The car that had the accident, he had a Crossfire.

Everk: Okay. Now in the last week, uh, I guess when you said it started escalating, what started, like what was said, and how did it keep escalating through the week?

Monaghan: Well, he was, he was, the whole gist of the thing was he was looking for more money from me. And, and um, you know he could, he could only work a couple hours, but what he did, I mean he did very well and he did acquire, he did get a lot done.

Video Transcription
5/20/2017
Jean Monaghan

Smith: What did he do, what did he do for you on the farm?

Monaghan: Kept the, the lawns manicured and

Smith: Okay.

Monaghan: Um, it was, it was all landscaping work

Smith: Gotcha.

Everk: How much did you actually pay, how much did he get paid.

Monaghan: Well, I, you know he only worked a couple hours on a daily basis which was about three, um, and then I gave him \$150 a week. It wasn't, and, and of course then, you know, I, I felt that, he was living in my house free.

Smith: Right. Okay.

Everk: Makes sense. He's, how old is he?

Monaghan: 47

Everk: 47

Smith: You had mentioned to me, uh, that you didn't care too much for his uh, his recent ex-girlfriend, what was her name again?

Monaghan: Lisa Deremer.

Smith: Deremer, and you didn't have an address or phone number for her?

Monaghan: No.

Smith: Um, was he mad at you about that, in anyway?

Monaghan: Hmm, hmm (shakes head)

Smith: Do you remember why they broke up?

Monaghan: Well, what happened there was, you know, he was, he was out working. She stayed, she stayed in the room all day. God knows what she was doing between the bedroom.

Smith: Did she use drugs too?

Monaghan: Well, she was at the methadone clinic also

Smith: Okay.

Video Transcription

5/20/2017

Jean Monaghan

Monaghan: and she was an alcoholic.

Smith: Okay, okay.

Monaghan: So, what happened was while he was out working, she's upstairs thinking that he's sleeping with the woman downstairs, one of my tenants. So, what happened there was um, they, they got into an argument over it I guess and then she left and then she got on Facebook, um with the tenant downstairs accusing her of sleeping with Tony. And I said don't you dare bring her back here.

Smith: What's that tenant's name?

Monaghan: Um, Debra Zoe. I don't, I don't want, I don't want my tenants involved.

Smith: No

Everk: No

Monaghan: I don't want my tenants involved.

Smith: No, it's not like that.

Everk: No, no.

Monaghan: Ok.

Everk: We're getting the entire background of the whole, the whole situation. So, besides um this week, he wanted more money from you.

Monaghan: mmm, hmm.

Everk: What else did uh, he want from you?

Monaghan: That was the gist of it. I mean he just, he had it in his mind that I was treating him like the "n" word. I mean he was in my face with that saying you treat me like a nigger and you know you pay, don't pay me what I'm worth and, it, it was a go around and that was stuck in his brain for a week and a half. And that's all I heard every day.

Everk: And, then that's why you got the PFA, you were scared or?

Monaghan: Well, what happened was he, he came down and he threatened me. He said you're gonna go and stay in a hotel the way I had to stay in a hotel. I'm going down to the courthouse to pull a PFA on you and then we'll see. They'll be here. So, I thought, oh my God, then I called Jack, I said that's what he's going to do, so.

Smith: Now this was all over money?

Video Transcription
5/20/2017
Jean Monaghan

Monaghan: This was all over money.

Smith: Ok.

Monaghan: And then he said, he said "you don't want to pay me what I'm worth, I'm going to go down there, file that, and then, and then, while you're out of here I'm going to rob you blind." And I got scared.

Smith: Where did you go for the PFA, Easton.?

Monaghan: Down to, down to the courthouse in Easton. So, I went right down there and I, I filed.

Smith: Did he ever get to file too?

Monaghan: Pardon me?

Smith: Do you know if he filed a PFA ?

Monaghan: It was, his name was on the, the roster there where you have to sign in, but he never filed.

Smith: Gotcha, ok.

Monaghan: Because then he called me back and then he said "well I was in there to file but I didn't."

Smith: What day was that, that he went down to the PFA office in Easton?

Monaghan: What's today Saturday, Thursday.

Smith: Thursday.

Everk: What time did you go on Thursday, for the PFA.

Monaghan: Might have been around noon time.

Smith: Now, was that for threats that happened on Thursday morning or for threats that happened on Wednesday, that he was going to rob you, and, and you know and all this stuff?

Monaghan: Well, that was when he went down to file, that's what he told me.

Smith: So, Thursday morning this happened, started.

Monaghan: Yeah.

Smith: Ok.

Video Transcription

5/20/2017

Jean Monaghan

Everk: And he told you this by phone or by text?

Monaghan: No, he was right in my face.

Everk: Oh, in person.

Monaghan: Oh, yeah.

Smith: So, his intention was, to essentially, if I'm understanding correctly, Thursday morning, he's yelling at you, he's going to get this PFA against you, get you kicked out of your house so you stay in a hotel and then while you're there he's going to take your money and rob you out.

Monaghan: *Nodding.*

Smith: Ok, makes sense.

Everk: And then Friday, that's when, or Thursday afternoon, is when the PFA was served. When Northampton County Sheriff's office came?

Monaghan: Yes, it, it, it was served, well then maybe it might have been Friday because they came

Smith: The same day?

Monaghan: I'm just losing track of time here. I'm pretty sure it was yesterday.

Smith: Ok.

Everk: Do you know what time, about?

Monaghan: They came about 5, 5:30.

Smith: So, this all happened on Friday then?

Monaghan: I'm, I'm, yeah, yeah, I think it happened Friday.

Smith: Ok.

Everk: Now, was he able, when the Sheriffs came, did he say anything to you at that point, not the sheriffs, but uh, Anthony?

Monaghan: Well, no, they scooted me away. They, they wanted to talk with him separately, so they took him out front and talked with him. And then they, they, the two sheriff went up to his room with him and, and I walked over by the staircase and they of course found his marijuana. And he told them, "she just put that here because she's an alcoholic", meaning me. And they had, you know he came down with it in his hand.

Video Transcription

5/20/2017

Jean Monaghan

Everk: And what, who, the sheriff's officer came down with it?

Monaghan: *(nodding)*

Everk: And what did the sheriff's officer do with it?

Monaghan: I don't know, he took it.

Everk: Do you know what sheriffs were out, I mean we're gonna find all this out.

Monaghan: I, I'm sorry *(shaking head no)*

Everk: That, that's find. We can get all that, I'm just, um

Monaghan: One was a female though.

Everk: Ok. And that's all he said to you is that, uh, that you, you're an alcoholic and you put the marijuana there, didn't yell at you like why're doing this?

Monaghan: Well, no he told, no he wasn't, he, he didn't direct that at me. I heard it from him because he was up in his room with the two sheriffs. And then he said, "she just put that in here cause she's an alcoholic".

Everk: Alright, but he didn't, even when he came downstairs he didn't confront you or anything like that?

Monaghan: No, he went out the front door.

Everk: Ok. And you had no contact with him, um when he left with, the house with the sheriffs?

Monaghan: He left, he left, he, the sheriffs got him out of there. But then, then five o'clock this morning he came back for some clothing because he was cold.

Smith: About what time did the sheriffs serve him and remove him from your house?

Monaghan: It might have been about five, five-thirty.

Smith: Okay.

Everk: So, he came back at five a.m. this morning. And he told you that, to get clothes cause he was cold?

Monaghan: Hmm, hmm and he wanted the, the, um, for his car, um

Everk: Title?

Monaghan: Yeah the title for his car.

Video Transcription

5/20/2017

Jean Monaghan

Everk: Did he say why he wanted the title?

Monaghan: He wanted to sell the car, for money.

Everk: And then, what time did he leave after five a.m., was he there for a while?

Monaghan: No, he was there maybe three or four minutes.

Everk: Ok.

Monaghan: But he was very erratic.

Everk: What was he wearing when he came over? Do you remember anything like that?

Monaghan: When he came in the house he had a red t-shirt on and jeans.

Everk: No jacket?

Monaghan: No.

Everk: Ok. And that was the whole conversation? Wanted the title for the car?

Monaghan: that's

Everk: He, he didn't get it, right?

Monaghan: Yeah, he did.

Everk: Oh, you gave him the title?

Monaghan: No, I didn't have it, he had it up in his room.

Everk: Oh, didn't have it. Ok, he left and there was no other conversation?

Monaghan: But then he tried to call several times. Then he, then he texted his, his father, but the father had already gone out for the morning and um his step-mother got the, the text saying he was going to take a bunch of pills and shoot his veins filled with um, antifreeze.

Everk: Alright, so

Monaghan: so that's when she and I got together on the phone and you know tried to work something out together, you know some kind of help.

Everk: So, he tried to call you several times, in the morning.

Monaghan: Hmm, hmm.

Video Transcription

5/20/2017

Jean Monaghan

Everk: What, you, you know what time?

Monaghan: Uhhhh, well, it was, um, right after he left at five o'clock.

Everk: So it was right after or

Monaghan: Yeah, there were two phone calls after that.

Everk: and do you have those phone calls on your phone, like what time?

Monaghan: hmm, hmm

Everk: All the missed calls.

Monaghan: there's one, two, three

Everk: Let me see.

Monaghan: He's the, the 484, 90, 903

Everk: These are all...Now these ones yesterday at night, what were they? Uhhhhh

Monaghan: I left it ring.

Everk: What's the red

Monaghan: Maybe I shouldn't

Everk: What's the red, the green

Monaghan: One is coming in, one is going out. I think. Hey, I had a flip phone up until last Christmas.

Everk: Ok, so we'll just say the nineteenth. So, if it says missed, it's obviously missed call.

Monaghan: Hmm, hmm.

Everk: If it's the red, I'm assuming this is an incoming where you would have picked up.

Monaghan: Probably, or he left a voice message

Everk: It shows

Monaghan: I think there're several voice messages

Everk: Ok, so that might be the voice message

Monaghan: Yeah, could be, I didn't collect them.

Video Transcription

5/20/2017

Jean Monaghan

Everk: He called a bunch of times, yesterday I mean, at least.

Monaghan: And I'm sure they were just ranting and raving phone calls looking for the money and sometimes I just can't handle that.

Everk: And you didn't check any of the voicemails?

Monaghan: No.

Everk: Alright. Now this one

Monaghan: It's hard for a parent to watch their child do stuff like that. And it's hard for a parent to hear that.

Everk: Hmm, hmm

Monaghan: It's bad enough that he was in my face, and that was just.

Everk: Do you think this morning, and I'm just trying to figure out your phone. Like at nine oh five a.m. two minutes and twenty-three seconds I would think that you actually talked to him.

Monaghan: Well wait a minute, well wait a minute. That might have been when the police were there trying to, to, to get him to come home.

Everk: Oh, okay, I gotcha. Yeah, this one looks like it's outgoing, I think. Do you think that would be outgoing?

Smith: Yeah. If you want Mike, I'll just have one of the COs take a picture of those.

Everk: oh, we could do that. That would, there's no one here though right.

Smith: I think Haines is here.

Everk: Ok, well

Smith: We'll see whose here and

Everk: Yeah. Would you mind if we took a picture of the screens, and uh, missed, 10:09, 39 seconds, incoming, 10:11, 35 seconds, outgoing. Alright, um yeah, does he text you at all?

Monaghan: I don't text.

Everk: Ok, you just got out of the flip phone stage.

Monaghan: That's right. If you want to talk to me, talk to me.

Video Transcription

5/20/2017

Jean Monaghan

Everk: That's fine.

Monaghan: I can't get that texting shit.

Everk: Now, how would, your, uh, your voicemails, would they be

Monaghan: they're all on there.

Everk: Uh, how does it work? Is it, is it under his name only, is it in the voicemail, or do you have a voicemail box?

Monaghan: There's a voicemail box on there.

Everk: Ok.

Monaghan: I mean, you can, you can retrieve the voicemails that are on there.

Everk: Ok, that's what I, I was looking to see how many actual voicemails, which, just to make sure the voicemails I think they are.

Monaghan: Here.

Everk: Ten. Ok. There it is. Ok. Yeah, there's a bunch. Alright, um, I mean we would like to also tape, the voi, his, what he's saying. You don't even know what he said yet. And I don't know if, you know.

Monaghan: I don't want to hear it though either.

Everk: Ok. Wha, whi, which

Monaghan: I'm sure he was just ranting and raving. You can't get a word in edgewise. And threatening to

Everk: Today, we, we talked, when we were talking to you at the house, uh, the point where you called, you called cris, you called suicide hotline at one point.

Monaghan: His step-mother called suicide hotline to give us more information because we, I originally called here. And, and um, the officer apparently said that he really couldn't do anything because he didn't know where he was. And then I called his step-mother back and then um she said "well I'm gonna call the hotline." And then she did and then she relayed the message, the information to me and then I got back to the, the police officer here.

Everk: Ok

Monaghan: And um, that's when things started rolling.

Everk: And what's his step-mother's name?

Video Transcription
5/20/2017
Jean Monaghan

Monaghan: Pat

Everk: Pat, what's the last name?

Monaghan: Ardo.

Everk: Ardo, ok. And they live in

Monaghan: they live in Schnecksville.

Everk: Schnecksville, ok. I'm trying to, and your ex-husband's name

Monaghan: Is Angelo Ardo. That's the first

Everk: That's who

Monaghan: No, that's the first one.

Everk: Ok.

Monaghan: This one's the second.

Smith: Is he, is he a second, your son, or a junior.

Monaghan: No, no

Smith: Ok.

Monaghan: No. But he is, he is, um, um, my first husband's his biological father.

Smith: Oh, I'm sorry, I misunderstood.

Everk: You called the step-mom in Schnecksville, which is your first husband

Monaghan: First husband's wife.

Everk: Ok. Bear with me, I'm trying to think.

Monaghan: Sometimes I have to stop and think.

Everk: And that's his biological father?

Monaghan: Hmm, hmm.

Everk: Ok. So, he, he actually called the step-mom Pat and

Monaghan: I think first he texted her,

Video Transcription

5/20/2017

Jean Monaghan

Everk: text, ok.

Monaghan: and then, and then she picked up the text, which was that he was going to take a punch of pills and shoot antifreeze into his veins and then, then anybody wouldn't have to worry about him.

Everk: Ok, has he, has he tried to commit suicide before?

Monaghan: It's my understanding, and I can't confirm it, but I, I, he, he tried to hang himself when he was living up in Wilkes-Barre.

Everk: And how long ago was that?

Monaghan: Maybe about ten years ago.

Everk: Ok, nothing at your house though, no, no signs. He never said anything about it?

Monaghan: Does he, does he says things yeah, you know.

Smith: Do you know if the police were called to that, hanging? They were not?

Monaghan: No, uh, no, uh, I don't know,

Smith: You don't know. Ok.

Monaghan: that I don't know. Because one of the neighbors saw him and they cut him down. That was the story I got.

Smith: Ok.

Everk: So, the police probably were called, I would think.

Monaghan: Probably.

Everk: Most likely. Now, back then he wasn't living with you, did he have a drug problem back then?

Monaghan: Yeah.

Everk: Ok, is that why he was not living with you or?

Monaghan: No, he just had a girlfriend up there and he went up there and lived with her.

Everk: Do you know where he lived in Wilkes-Barre?

Monaghan: Um, it was in the, one of the resort areas up there. Ha, Har Harvey's Lake.

Video Transcription

5/20/2017

Jean Monaghan

Everk: Ok. And then after uh, during today with Pat, he, he said that about shooting antifreeze in his veins.

Monaghan: Hmm, hmm.

Everk: He called you at some point?

Monaghan: Hmm, hmm.

Everk: And what did he say to you?

Monaghan: Well, uh, like I said, he wanted, he wanted more money and uh, and I, I uh just refused to give it to him. And then the police were there and they said I might want to get him here. So, I did that. I said I called him back and then I said, if you need some, I changed my mind, I'm gonna give you a little money. You know, then he, then he started again. What are you gonna give me, ten dollars, twenty dollars? Um, and then, and then that's when he said, he said, "don't fuck with me mom". He said, "I'm gonna put something around my neck. If there are cops there, I'm gonna blow myself up".

Smith: Did he say "something", or did he say what it was? Like, did he say "I'm gonna put something around my neck" or did he say "I'm

Monaghan: I knew he had fireworks, cause, the heavy-duty M-8, are they M-80's

Everk: M-80's, quarter sticks, half sticks.

Monaghan: Right.

Everk: How about anything, uh, did he say, uh, whatever device he was going to have, was there anything in it, nails or did he mention anything about that?

Monaghan: I don't know that. He didn't say that.

Everk: Ok.

Monaghan: He said if I see a cop I'm gonna blow myself up.

Everk: And you know he had these types of fireworks, you know?

Monaghan: Yeah.

Everk: Um, and at the house, uh, I mean we went through the suicide hotline, obviously the two troopers came to the house. When he called and you guys talked that he's going to blow himself up, the two troopers were inside your house at that time?

Monaghan: (nodding)

Video Transcription

5/20/2017

Jean Monaghan

Everk: Ok, and then

Monaghan: But they had the car hidden.

Everk: In the back?

Monaghan: Yeah, and then what happened was he pulled up to the house and then he called me back on the phone and he said I'm not stupid. Come out here, I'm not coming in there you probably have cops in there. And I said no I don't. And he said don't fuck with me mom, I'm gonna, you know I see a police officer and I'm just gonna ignite this thing. And, and the, the, one of the cops went out the front door cause he had pulled up on the street out there and ran to get the other car and, and they kind of cornered him there. And he said ok, mom, and he ignited that thing and all I heard were, were the things exploding. They were trying to get him out of the car.

Everk: Alright and, and, I didn't want to talk to you too much about it. You, uh, you, you're, you're gonna read stuff in the paper, you're going hear stuff on the news, ok. He did have something around his neck.

Monaghan: Yeah.

Everk: Alright, he was going to be doing that. I'm not all on the details yet. They're going to do an autopsy. But he was also, our guys, the, the two guys that were there, one of them or if not both, at this point we do not know, shot him also.

Monaghan: Oh, my good, goodness

Everk: He was, he was lighting what was around his neck.

Monaghan: Oh my God.

Everk: And I think, we don't know until we get everything, there were some other words said, neighbors also heard, there was time, you know, telling him to get down. Did you hear anything, what was being said from the officers outside?

Monaghan: All I heard the officers screaming show me your hands, show me your hands. And apparently then he ignited whatever was around his neck.

Smith: Did you see him do that?

Monaghan: I couldn't see in the car, but I was by the window. I had to, then I just turned around and ran back cause I knew what he was doing.

Smith: Where were, where were the troopers when you saw them giving him commands

Monaghan: They were right out, the, the, he, Tony pulled up right on the roadside of my house and the, uh shades were up.

Video Transcription

5/20/2017

Jean Monaghan

Smith: Ok.

Monaghan: And then one of the troopers came around from the back of the house, around the pool area there, and, and stopped him and there was, there, the other one was in back of him. And then all I heard him say was ok, ok, mom and he ignited that thing.

Everk: You were on the phone with him at this point.

Monahan: Yes.

Smith: You, you heard it light?

Monaghan: No, he said ok mom and he hung up and then a split second later I heard it, I heard the explosion in the car.

Smith: Ok.

Everk: Was there

Monaghan: And the police, the police couldn't be any nicer. They, they, they did have their pistols drawn. I don't, I can't confirm the fact that they shot it. I don't know that because I heard that going off in the car and I just, I couldn't look at him like that.

Everk: Nor should you. He's putting you in a situation that he shouldn't as a son. But I, I want, I wanted to tell you, at the house from the preliminary reports, one or if not both, but at least one, he was shot.

Monaghan: I didn't know that.

Everk: Ok, and, and, you'll, you'll hear about it. Um, it'll, it'll come out. You'll, you'll read something on the news. Um, there's very limited information out there at this point to people. Um, so, what people think, or think what happened, no one's gonna know.

Smith: Any real information you're going to get from us.

Everk: So, they'll do, they're gonna do an autopsy and so forth, uh, I think on Monday.

Smith: They usually do it, yeah.

Everk: On Monday, um, and through our investigation, we're, we're, we're taking the car that was out there. Um, we're gonna actually bring that back to the Bethlehem barracks. And that's where I'm out of, this is the Belfast barracks. Um, and what we'll do is we'll get a search warrant cause it's his car, it's in his name. And we'll, to search the car um for any evidence and so forth. Uh, the big thing, especially in your house, is there any other black powder, any other devices, drugs. Obviously, there was drugs at one point, is there needles,

Monaghan: Yeah, I don't know.

Video Transcription

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Jean Monaghan

Everk: and I have no idea at this time yet, cause we're here. The things I want to do, we're trying to get his back ground leading up to this incident to cause this. Um, and try and like, uh I don't know what the messages, uh say but I would think.

Monaghan: Uh, uh dollars to donuts it's just screaming and ranting and raving and I just you know at times I just can't deal with that.

Smith: Did, did he keep these firework or explosive type devices in his vehicle or did you see him grab them?

Monaghan: Some were in the room. See he and, his cousin works off of fireworks and um.

Smith: Where does sell out of, like flea market or does he have a business?

Monaghan: They, they have a business.

Smith: Where's that at?

Monaghan: Uh, he's on the road, I don't know.

Smith: Ok.

Monaghan: I don't know.

Smith: What's his cousin's name?

Monaghan: Brian Ehret.

Smith: Do you have his phone number by any chance?

Monaghan: I don't, I don't know. He's just, he keeps to himself. I don't even know where he lives.

Smith: Ok.

Everk: Brian, you said Arat?

Monaghan: Ehret, E-H-R-E-T.

Everk: E-H-R-E-, ok. And he sells fireworks.

Monaghan: Hmm, hmm

Smith: And that's his cousin?

Monaghan: Hmm, hmm

Smith: Ok. So, you say he does, he does keep them in the car though?

Video Transcription
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Jean Monaghan

Monaghan: Well, if he were selling them, yeah, I mean he'd have them in the car.

Smith: No, no, I mean your, your son, he keeps them in the vehicle?

Monaghan: Yeah, well, no, no there are some in his room right now.

Smith: Ok.

Everk: Does he make his own?

Monaghan: Make his own? No.

Everk: Play around, maybe, do something with black powder

Monaghan: No, I think they, no, no, these are already packaged up and what not.

Everk: Do you have, do you have any questions? This, we're sort of been asking you, what, we'll give you a chance

Monaghan: I don't, I don't have questions, I just don't understand how somebody can do this. I mean I tried to get him help. That was the whole purpose of having the police there today. And, now, do I question, I mean, was

Smith: No, ma'am. That's, no

Monaghan: I mean was that the right thing to do at that point?

Smith: don't do that to yourself.

Everk: That's, yeah, you're

Monaghan: I think he might've been headed in that direction no matter what.

Everk: And to get him outside, they, obviously, they're not going to let him come in the house if he's telling you right on the phone that he's gonna blow himself

Monaghan: Yeah, yeah

Everk: blow himself up. They're not, as the two guys were there, they're not gonna allow him to come in and let that happen in front of you.

Monaghan: No, that's why they, that's why they did buzz, and they went out and they you know cut him in, blocked him in.

Everk: and you don't know what he has.

Monaghan: I don't.

Video Transcription

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Jean Monaghan

Everk: There's other, you know, other people in the area. If he goes, drives somewhere, does this and hurts somebody else, you have no idea. So, to put it back on yourself, as a mother I can see what you're doing, but you shouldn't be. You didn't put yourself in that situation. He's a, he was a grown man.

Monaghan: Mmm, hmm. But he had the, I think, he's been doing drugs for so long I just think he had the mind of a fifteen or sixteen-year old. I mean he just, this is the worst I've ever seen. He just doesn't think right.

Smith: After you heard those explosions did you go outside?

Monaghan: I did not, no. Cause then they, what, what I did see was that, that they did pull him out of the car.

Everk: And then what did you see after that?

Monaghan: Nothing, I just

Everk: your turned away?

Monaghan: I, I, I don't want to remember my son like that.

Everk: You going to be ok with your, uh, I don't know is name. Is it your ex-husband outside?

Monaghan: Yeah, that's the second one. Yeah, he raised, he, he, you know, we, we been, we were together a long time and the kids were really young.

Smith: Ultimately, your goal today, to get your son back to the house before this tragedy happened,

Monaghan: Yeah

Smith: was to get him

Monaghan: Right to get him

Smith: some sort of drug help?

Monaghan: Yeah because he wasn't going to do it on his own.

Smith: Ok.

Monaghan: and then, then threatening the suicide like that. You know, uhhh, we just got together and, and thought that that would probably be the best thing to do?

Everk: And who was that, you and the two police officers

Monaghan: No, the,

Video Transcription

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Jean Monaghan

Everk: and the suicide hotline?

Monaghan: the, the, the step-mother, and my first husband, and also the police.

Everk: to get him back to the house?

Monaghan: Yeah.

Everk: Ok. You did nothing wrong.

Monaghan: No, I don't, I don't believe I did,

Everk: No, you did not.

Monaghan: I was trying to help him.

Everk: And, and he would have gotten the help, if he, but obviously

Monaghan: There, there has to be something twisted for you to do something like that.

Everk: And he, he's already did it ahead of time and he's tellin, you know,

Monaghan: He had to

Everk: he's changed. You know he was coming to the house to get money.

Monaghan: He was com, he was coming to the house with that apparatus around his neck.

Everk: Right.

Monaghan: I mean, because once he saw the police officers, you know, he lit that thing.

Everk: So, there, there, was, either way and it could have been you he could have hurt.

Monaghan: Yeah, well see cause he was so far out of the, the sense of reasoning, um, you know, that's, I just got afraid.

Everk: Do you have anything else?

Smith: is there any services or anyone we could call for you or anything you need from us any way we can help you at all, at this time.

Monaghan: No, nope, Jack will be with me. My daughter's coming later.

Everk: And your, how old's your daughter?

Monaghan: How old?

Video Transcription

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Jean Monaghan

Everk: Yeah.

Monaghan: 44

Smith: Who was living in the house?

Monaghan: Me, and Tony.

Smith: Just, just you and Tony.

Everk: And your daughter, did she have contact with Tony, did she have

Monaghan: Very few only because you know she has a little girl and um, you know, as, as long as he was straight, you know she didn't mind being around him but, you know she didn't want the baby to see him all bugged up.

Everk: Protecting her baby.

Smith: What's your daughter's name?

Monaghan: Gina Marie Ardo. It's, her's is G-I-N-A.

Smith: Did Anthony ever have any children?

Monaghan: No.

Everk: And you have Gina's phone number?

Monaghan: Yes.

Everk: Ok, is that

Monaghan: It's 484-894-4204

Everk: Is she from the area?

Monaghan: Um, yeah, she lives up on uh Sullivan Trail.

Everk: Ok, and is, where's your ex-husband live at? Is he from the area too? The, the one that's outside.

Monaghan: The second one. He lives in Allentown on Livingston Street.

Everk: Ok, and, and right now I don't know where, we're, we're at up at the house, um but obviously, I'd rather have you not go back right away or I don't know if you can go to your daughter's for a little bit and we can call you.

Monaghan: I'd like to go back home if I can.

Video Transcription

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Jean Monaghan

Everk: Ok, I, I just want to call up there before anything

Monaghan: Ok, ok.

Smith: You could wait in the lobby or go grab a coffee or whatever and come back, you know, cause they're gonna be a little while, definitely. I don't know, like he said, we don't know where there at right now.

Everk: Cause when we do this, obviously, the house, they were doing up in his room right away. Now, I don't know what, until we, we're done, make a phone call. Outside, they're gonna do certain things then that, that's gonna take a little bit longer. Um, but, obviously, you can go in the house at that time.

Monaghan: Hmm, hmm.

Everk: I just want to make sure and I didn't know if you wanted to go in the house right away. I didn't know your thought there.

Monaghan: If I can, I'd like to go back.

Everk: Ok, that's fine. We want you happy. Um, is this, this is your only phone, right your means.

Monaghan: *(nodding)*

Everk: Ok. I'm trying to uh, uh we'll try to get pictures of your phone. I'm trying to figure out maybe how we can do the voicemails. I, I would like to get the voicemails off of there, I just have no idea how to do it.

Smith: We'll work on it.

Everk: We, can't, we wouldn't be able to do it right now. Or, or, some kind of audio thing from it.

Monaghan: Hmm, hmm

Everk: But for now, just hold on to that, um, we're not going to be taking it today. When we get to that point maybe take pictures. But we want to talk to your ex-husband. Are you going to be ok out there?

Monaghan: Hmm, hmm.

Everk: Ok, do you need anything to drink,

Monaghan: Nope, I'm fine, thanks.

Everk: Anything? Coffee?

Video Transcription

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Jean Monaghan

Monaghan: Nope, thank you.

Everk: But let me uh, this number on the back, this is my direct line at work. Ok, and I'm, I'm at the obviously I told you at the Bethlehem barracks.

Monaghan: Ok.

Everk: And I'll be the one that will be doing the actual investigation and same with everybody else will be helping me but for the report wise, it will be mine.

Monaghan: Ok.

Everk: So, if you have questions, if you want something, need something, uh give me a call, uh if I'm not there, I'll get your voicemail and I'll give you a call.

Monaghan: Ok.

Everk: Thank you very much.

Smith: Thank you for your time. Can you, just at a minimum, wait in the lobby for a second so I can make sure it recorded?

Monaghan: Ok.

EXHIBIT 7

SP 7-0019 (9-99)

PENNSYLVANIA STATE POLICE
RIGHTS WARNING AND WAIVER

INCIDENT NO.: PA2017-516047

NAME: 1310 DATE: 06/16/17 PLACE: PA State Police - Belfast Barracks
My name is Trooper Michael EVERK of the Pennsylvania State Police.
(OFFICER'S NAME)

You have an absolute right to remain silent and anything you say can and will be used against you in a court of law. You also have the right to talk to an attorney before and have an attorney present with you during questioning. If you cannot afford to hire an attorney, one will be appointed to represent you without charge before questioning, if you so desire. If you do decide to answer questions, you may stop any time you wish and you cannot be forced to continue.

WAIVER

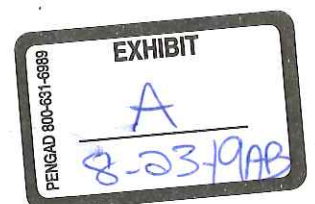
I fully understand the statement warning me of my rights and I am willing to answer questions. I do not want an attorney, and I understand that I may stop answering questions any time during the questioning. No promises have been made to me, nor have I been threatened in any manner.

SIGNATURE

WITNESS(ES)

SIGNATURE OF WITNESS(ES)

SIGNATURE OF OFFICER



DEF0000186

Incident #: PA2017- 516047
Trooper Jay SPLAIN Interview

EVERK: June 16, 2017 at uh, 1-0-9 p.m. Uh, we're at the Pennsylvania State Police, Belfast Barracks. Uh, my name is Trooper Michael Everk out of the Pennsylvania State Police Bethlehem Barracks. Uh, Trooper Raymond Judge is here from the State Police at Bethlehem Barracks. Um, Trooper Jay Splain and his attorney, Gary Asteak. Um, we're here in reference to the police involved shooting on May 20th of Anthony Ardo at 1382 Good Rd. in Lower Mount Bethel Township, Northampton County. Um, I'm gonna read the Rights and Waiver beforehand, ok?

You have the absolute right to remain silent. Anything you say can and will be used against you in a court of law. You have also the right to talk to an attorney before and have an attorney present with you during questioning. If you cannot afford to hire an attorney, one will be appointed to, and represent you without charge before questioning if you so desire. If you decide to answer any questions, you can stop at any time you wish and cannot be forced to continue. Uh, to you fully under, uh understand this statement and you want to talk, and your attorney's here?

SPLAIN: Yes, I understand the statement and I'm ready and willing to talk.

EVERK: And no promises have been made or been threatened in any manner?

SPLAIN: That's correct.

EVERK: Can you state your, uh, full name and your rank?

SPLAIN: Jay David Splain. My rank is Trooper First Class.

EVERK: And how, how long have you been employed by the Pennsylvania State Police?

SPLAIN: Approximately 13 years.

EVERK: And where are you currently stationed?

SPLAIN: Troop M, Belfast, Patrol Section.

EVERK: And were you stationed in any other stations before that?

SPLAIN: Uh, Troop M, Bethlehem in the Patrol Section.

EVERK: Ok. And what year did you come to the Belfast Barracks?

SPLAIN: Uh, I believe it was, 2011, if I'm not mistaken.

EVERK: Ok.

SPLAIN: I've been there about five years.

EVERK: Then we'll go back to the date of this incident. You were working on May 20, 2017?

SPLAIN: Yes, I was.

EVERK: And how were you attired that day?

SPLAIN: I was uh, dressed in full uniform.

EVERK: Uh, what was your shift on that date.

SPLAIN: My shift was 0700-1500.

EVERK: And were you in a marked patrol vehicle that day?

SPLAIN: Yes, I was.

EVERK: Do you know what car number?

SPLAIN: Yes, M6-14.

EVERK: And were you dis, were you dispatched to a call at 1382 Good Rd., in Lower Mount Bethel Township?

SPLAIN: Uh, I was not dispatched, but I uh, I was going to say I dispatched myself to assist the trooper that had been assigned the call.

EVERK: Ok. When the call was assigned where were you at, at that time?

SPLAIN: I was in the communication's desk room.

EVERK: And who were you with?

SPLAIN: Uh, the police communications operator, Leonard Behler.

EVERK: And what did you know, uh, about any call to 1382 Good Rd. at that time?

SPLAIN: At that time, I knew that the, uh, homeowner, property owner at 1382, uh, Ms. Jean Monaghan, had contacted PSP Belfast to report that, uh, she'd gotten a PFA against her, her son, uh, Mr. Ardo. I believe it was the day prior and he had shown up on the morning of the 20th, May 20th, around 5 o'clock in the morning. She also stated that, uh, her son, Mr. Ardo had substance abuse issues, drug history, and that he was making suicidal threats and statements. Um, and thi, this was around 8 o'clock in the morning when she first called.

EVERK: And who told you this?

SPLAIN: Uh, this was information I gathered from, I was sitting right next to our dispatcher, Leonard Behler, when he took the first call from Ms. Monaghan. Um, so I was not, I did not listen in on the call, I just you know was privy to PCO Behler's side of the conversation and then, um, after the call ended, he kind of gave me a quick rundown of what was going on.

EVERK: When you say first call, was there a second call then?

SPLAIN: Yes.

EVERK: Is that from Jean Monaghan?

SPLAIN: Yes.

EVERK: And did Mr., uh, PCO Behler say anything about that call?

SPLAIN: Um, yes, again, I was still seated next to him in the communications room and uh, he stated that Mrs. Monaghan was not, didn't seem to be happy with the response she got from PCO Behler after the first call. Um, basically she was concerned about the suicidal statements that her, her son, Mr. Ardo was making and was looking for help and uh, getting him, I'm assuming 302'd, involuntarily committed. Um, but she had no idea where he was currently at, at that point in time. As far as we knew, she said the last time she'd seen him was when he showed up at that house and violated the PFA at 5 o'clock that morning. And now this is three hours later, um, when she's calling to report it.

EVERK: Ok. Uh, after the second phone call, um what happened next.

SPLAIN: I believe the second, after the second phone call, um, sh, Mrs. Monaghan stated that she had gotten in touch with the suicide prevention hotline and that they told her that her son could be involuntarily committed. And, again, PCO Behler explained to her, it was like, that's correct. He can be involuntarily committed but we have to be able to find him first, and you

know we have no idea where he's at. You being his mother don't know where he is. Um, basically the best thing to do is put a um, I believe a SCOPE message out to the patrol units to, you know be on the lookout for, for Mr. Ardo and/or his vehicle and if anybody happens to run across him, to do a welfare check on him. And proceed from there, once, you know, once he's located, if he's located.

EVERK: Ok. Were you there at the desk for any other conversations that Lenny had with, or uh, PCO Behler had with uh, Mrs. Monaghan or anyone else?

SPLAIN: Um, I don't recall, uh any further conversations, uh after that second call that Mrs. Monaghan placed here. Uh, with, with her, I do know that uh, during her second call here, uh, PCO Behler obtained Mr. Ardo's cell phone number from uh, Ms. Monaghan and uh, he then called Mr. Ardo's cell phone after he got off, as soon as he got off the phone with the mom. Uh, and uh, Mr. Ardo answered the phone. Again, I only got PCO Behler's, I only heard PCO Behler's side of the conversation. I was not listening in on the call, um, I was just sitting, seated next to him, listening to what he was saying, you know, and his responses to whatever Mr. Ardo was saying. Um, and

EVERK: Did PCO Behler tell you anything about the phone call, besides what you were hearing?

SPLAIN: Yes, uh, after the call ended, um, PCO Behler asked several times for Mr. Ardo to uh, tell us where he was currently located at. Um, Mr. Ardo refused and uh, he made suicidal statements to PCO Behler over the phone. The, I think he, PCO Behler told me that, that Ardo said he was going to blow his head off, or something, something to that effect. And, uh, I, I remember hearing PCO Behler's, you know looking back on it then, PCO Behler's response to uh, those statements was I don't advise doing that, um and PCO Behler also related that Mr. Ardo claimed that his mother was growing pot on the property at 1382 Good Rd. and um, the, PCO Behler said that the conversation ended with Mr. Ardo stating um, when you see the, it was either the, I don't know if he said, when you see the smoke on the mountain or when you see the fire on the mountain, you'll know it's done. And then that, he hung up.

JUDGE: What um, you said you were at the desk that morning, that Saturday morning. What, what was your, were you performing any specific function or

SPLAIN: Um, that, uh, well, it was a, a uh, rainy Saturday morning. I had several reports that I wanted to get done, um, so at that point I had just finished eating my uh breakfast and then I uh was going to take a quick run down to my assigned patrol zone for that day, which is on 35, which is Williams Township, West Easton Borough, and Glendon Borough. Um, and it, it was you know then, the process of me finishing my breakfast and uh, checking on PCO Behler just to see if anything was going on, um, because uh, Trooper Pagan, who was assigned zones 33 and 34, which covers Upper Mount Bethel and Lower Mount Bethel Townships, uh, he had a single vehicle crash, uh that came in, I think it was between, I think it was, I want to say it was around 7:30. I know it wasn't, it was right after the shift started. Um, so I was just kinda checking in on what his status was and um, then again, once you know, once I was done doing that, I was, my plan was to get in my car and do a quick check of my patrol zones and find somewhere to start typing my reports.

JUDGE: Ok. Now, the two phone calls from Mrs. Monaghan, you were there for the entirety of those conversations,

SPLAIN: Yeah

JUDGE: that she had with PCO Behler?

SPLAIN: Yes, I was.

JUDGE: And, and the same thing with the phone call uh, with Mr. Ardo?

SPLAIN: Yes.

JUDGE: Ok.

EVERK: So, you said you self, you dispatched yourself to 1382 Good Rd. Have you ever been to that address before?

SPLAIN: Never.

EVERK: Uh, you ever heard of uh, Jean Ardo,

SPLAIN: No.

EVERK: Uh, even through the patrol unit or any other issues there?

SPLAIN: No.

EVERK: Talking about it.

SPLAIN: No, I'd never even heard of that road, um, I had, I had to look up the, the address on my GPS, cause I was like do we even have a Good Rd. in Lower Mount Bethel? I never heard of it.

EVERK: And what about Anthony Ardo, never heard of him before?

SPLAIN: No.

EVERK: Never dealt with him or heard someone on station talking about it?

SPLAIN: No. Never.

EVERK: And did uh, PCO Behler didn't say anything that if he knew we'd been there or dealt with Anthony before too?

SPLAIN: No, I don't think he did.

JUDGE: You said you were self, you self-dispatched. You took it upon yourself to, to go up to

SPLAIN: Yeah, I was thinking about the way I phrased that, cause now that we have, with the new CAD system there's a self-dispatch, you know function, um within that system. No, what I meant was I took it upon myself, being the senior ranking trooper at that time, um, the weekend supervisor was Corporal Mark Sysco, uh, but his scheduled shift for that day was noon to 8 p.m. So, uh, me being the senior ranking trooper and uh, the fact that um, I was also the next closest trooper to the call geographically, uh and the fact that after the conversation that PCO Behler had with Mr. Ardo, he was definitely uh, suicidal, distraught, uh, in need of help. That's when I decided that uh, I should assist Trooper Pagan um, at the uh, the mother's residence. Um, my thing at the time was, that, not being familiar with the property, the residence, cause I'd never been there before, um, initially my plan was to, I was just gonna kind of canvas the area around the property, the, the roadways, while Trooper Pagan took the report from the mother and I was going to keep an eye out for Mr. Ardo's car. Um, but once, once I got on scene and saw the size of the property, the rural area it was in, um, and the fact that Mr. Ardo had already been there once this morning, in violation of the PFA, I decided that the, for officer safety reasons I, it would be best for me to go into the residence and uh, kind of act as a second pair of eyes for Trooper Pagan so he could focus on his interview with the mom, and um, I could, my plan was to you know, just keep an eye out, um, outside in case Mr. Ardo would happen to reappear at the residence or even just drive by.

EVERK: When you arrived at Jean Monaghan's residence, where, where did you initially parked.

SPLAIN: I initially parked, there's um, a, a horseshoe driveway on the, the northeast corner, in the front of the house. Um, I wouldn't call it the, it's not like the main driveway, um that goes between the house and the, it's like a barn. Um, on the, it's on the west side. Um, when I initially arrived, I didn't see Trooper Pagan's patrol vehicle. Um, so I, I parked in the horseshoe driveway and walked across the front yard, going from east to west. Uh, just trying to determine where Trooper Pagan was at, I didn't know if he was talking to the mom outside of the house, inside the house. Then I, I saw his patrol vehicle. Then I noticed there was uh, a door on the house that seemed like it was, it would be the front door of the house facing north, facing Good Rd. But there was also, I saw, there's a door on the west side of the house. So, I was trying to decide which door I should either try knocking on or entering through to, to uh locate Trooper Pagan and Ms. Monaghan and ended up being, I went back to the front door on the north side of the house that faces Good Rd. And I, just as I was walking up to it, I could hear voices, Trooper Pagan inside and noticed the, the door, door was slightly ajar and just as I went to open it, I believe it was Trooper Pagan who said, from inside, hey come on in. So, that's when I entered. Closed the door behind me and he, it appeared that Trooper Pagan was pretty much just wrapping up his uh, interview with the mother. At which point, I uh, noticed that the, the front door that I entered through had a, the top half of the door was a window and had a blind over it, that was covering the window. So, I, for officer safety reasons, decided to open the blind so that I could watch out the window and keep an eye out for Mr. Ardo. Um, if he should, would choose to reappear, or like I said, to just drive by. So, that's what I, opened up the blinds, I kept watch out the window, and Trooper Pagan finished up his, his conversation with Ms. Monaghan.

JUDGE: And this is the door that faces north, faces Good Rd. It's the door that leads into the kitchen?

SPLAIN: Yes.

EVERK: Was Jean, uh, Monaghan the only one there, was there anyone else in the house?

SPLAIN: There was nobody in the house that, that I was aware of or, or had seen.

EVERK: And did you over hear the conversation with Trooper Pagan and Ms. Monaghan?

SPLAIN: No, I mean it was uh, I could just tell, it, it seemed like he was wrapping things up, getting ready to leave, just based on the conversation. I don't remember the specifics of it, nothing really stuck out in my mind at that point. And again, my concern was letting, letting Trooper Pagan handle the interview part and for me to be there as back up and to, to keep an eye out, my main focus was to keep an out for Mr. Ardo.

EVERK: Ok. Obviously, you didn't leave the house right away.

SPLAIN: No.

EVERK: What took place inside the house while the three of you were in there?

SPLAIN: Just as we were starting to make our way out of the house from the kitchen, through the mud room, uh, to the uh front door, Mrs., uh, Ms. Monaghan's cell phone rang. And she said it's him should I answer it. And, myself and Trooper Pagan both said yeah, answer it, see if you can find out where he is. Um, actually let me backtrack. Um, before that, before her phone rang, as we were leaving, I said, it dawned on me the statement that Ardo had made over the phone to PCO Behler, about the fire on the mountain and knowing it's done after we, once we see that. Um, because once I'd gotten there, arrived on the scene, saw the layout of the property and I noticed there's a large hill that goes up behind the barn, uh, next to the residence. And I kind of questioned in my mind, is that the mountain, you know that he was referring to. Um, so I, as we were leaving, I said, this dawned on me and I said, I asked Mrs. Monaghan, I said you know our PCO had a conversation with Anthony and Anthony made this statement about when you see the fire on the mountain you know it's done. Does that mean anything to you? And she, she looked at me, and kind of, like was surprised and said is he still, I wonder if he's still on the property. And I, I said, I said there's a large hill out her behind the barn and residence, is that maybe the mountain he's referring to and I believe she said something about he, he can hang out up there, there's a, she said there's a trail that goes up there and at that point we started inquiring about is there a way, like we could our vehicles up there if need be, you know, to, to check for him. And while we were in the middle of that conversation then, is when her, her phone rang, and um, she said it's him, should I answer it?

EVERK: And, during that phone call, did you listen in on the phone, did you hear the phone call or was it just between him and her.

SPLAIN: Um, I believe initially it, it started as, as, uh, just him and her but then without us asking her to, uh, she put it on speaker phone so we all could hear it. Cause, um, Mr. Ardo was kind of going on a rant about how his mom ruined his life, he, he was like all the stuff I've done for you and this is what you do to me and, um, I'm assuming he was referring to the PFA cause he had to sleep outside in the cold rain, that, that previous night and um he also mentioned um that he was going to get a gun and blow his head off and he brought up the uh pot plants on the property, which Mrs. Monaghan's reaction, she kind of seemed, or at least acted surprised to hear about pot plants being on the property and you know he insinuated um, cause she asked him, she's like, you know, where are the pot plants at and he wouldn't tell her. He basically said you know that'll be your problem to deal with once I'm gone as far as proving that it was mine and not yours. Um and then the uh, conversation ended before, he, he asked his mom for some money. She refused and then I believe he hung up on her. The conversation ended without us being able to determine his location. He never said where he was at.

EVERK: Did mom ever say he had a gun?

SPLAIN: Um, I be, I believe before I left station here, I ha, I asked PCO Behler to find out from mom, you know if he, if he had any weapons to her knowledge. And she stated the, the only firearm that was in the house was hers and that firearm was accounted for.

EVERK: Ok.

SPLAIN: I believe Trooper Pagan verified that as well. Um, while he was there taking the report from mom.

EVERK: Ok and what happened after the first phone call?

SPLAIN: Um, the, uh after the first phone call he, he, he hung up so then um, I asked Mrs. Monaghan, I said would you mind, wait a minute or two, call Anthony back and tell him you'll offer him some, some money, just enough to get through the next day or two as long as he promises to get some help, um, and try and find out where he's at. She, you know, with, without hesitation, said sure, ok. Um, we waited, you know, probably about a minute. She called him back. He answered. Um, she said hey, you know, I'll, I'll give you some money and he basically said ok I'll be by. And that was it. Again, he didn't, he didn't state where he was coming from or how long it would be or where he was at currently.

EVERK: And was that the last conversation between him and her on the phone?

SPLAIN: No, um, there was a, uh, another conversation, probably about 20, 30 minutes later.

EVERK: And that conversation, did you hear that conversation? You said she put it on speaker for the first one?

SPLAIN: Yes, she um, I was actually in, she was in the kitchen and I was in the, the sitting room that's just off to the side of the kitchen on the, the, like the northeast corner of the house. Um, when she took the call, she immediately put it on speaker phone on her own accord and came walking towards the room that I was in holding the phone out in front of her with him on speaker phone.

EVERK: And what was said during that conversation?

SPLAIN: During that conversation, uh, again, Mr. Ardo seemed highly agitated, upset, and he, he was saying that, he was telling his mom that if her offering him money was some sort of a set up or a trick that he was going to have a bomb around his neck filled with nails and that he would blow his fucking head off and make his mom watch and he also said if there's, if there's any police, if he sees any cops he's going to blow his fucking head off.

EVERK: And that's all he said, was there anymore?

SPLAIN: Um, at, at that point his mom started to walk away from me. She still had it on speaker phone and she was just trying to reassure him, you know, calm down, it's, it's not a trick, just you know, just come get the money and uh, that was pretty, that was it. That's all I remember hearing and the conversation ended.

EVERK: Ok and Trooper Pagan, he would have heard the same conversation?

SPLAIN: I, I don't know cause, um, he was a lot deeper in the room, kind of around like the corner of the room, uh, cause he was maintaining a watch position through the front and side windows on the north side of the house, the first floor. The north side and um the east side. Basic, pretty much all the windows that were in that, that sitting room that uh, just off the kitchen that he and I were in.

EVERK: After this uh, this third phone conversation between Anthony and Jean, that you heard, uh, was there more calls? What happened next?

SPLAIN: Um, there's actually, she attempted to get a hold of him once before that, uh, but he, he didn't answer his phone. It rang, she had it on speaker phone, again completely on her own accord. Um, and it rang four or five times and went to voicemail. Um, and I think she just said it's mom, call me back. Then, I'm sorry, what was your, your question?

EVERK: After that, the call where talking about blowing himself up, did she call him back?

SPLAIN: Not that I'm aware of.

EVERK: Was there any other conversations between him and her?

SPLAIN: Uh, I know that once he showed up at that house, um, just before myself and Trooper Pagan ran out of the house to run our patrol cars, um I heard her phone rang and she said it's him. Um, but that was it, we, we ended up running out of the house shortly after that.

EVERK: Ok.

JUDGE: Was that, that I guess third phone call, where he mentions that he's gonna have a bomb around his neck with nails attached to it. Was that the only reference he made to an explosive that you're aware of.

SPLAIN: Yes, that's the, the only one I heard of.

JUDGE: And that's to include any conversation he would have had with Mr., with Lenny, the PCO, PCO Behler?

SPLAIN: Yes, yeah, I don't recall Lenny mentioning anything about a, a bomb.

JUDGE: Ok. And you kind of touched on this, but um, you, you said that when you got to the house.

SPLAIN: Hmm, hmm.

JUDGE: Um, and Trooper Pagan had preceded you, he had been there already and he was speaking

SPLAIN: Yes.

JUDGE: to, to Mrs. Monaghan. Um, you took it upon yourself, to, to you know, I guess conduct, surveil the outside of the house so he could, you know, complete his task.

SPLAIN: Yes, yes.

- JUDGE: What was the impetus for that? Why did you do, why did you feel the need to do that?
- SPLAIN: Uh, just cause I wanted to be completely aware of my surroundings. Um, I didn't want to be ambushed by Mr. Ardo. Um, uh that's common practice, it's eh, anytime I'm taking a report with circumstances similar to this, uh, whether it's somebody who's suicidal or domestic where, you know the aggressor has left, or another half has left, um and I'm on scene, I want to be as aware as possible of my surroundings to make sure that, you know that the other half doesn't end up showing up and ambushing me. Um, cause I know that uh, the last trooper that we lost was killed while conducting, ambushed, murdered while conducting a PFA violation investigation. And that's, this was a PFA violation, you know as well as a mental health evaluation um, issue, so.
- JUDGE: Ok. And, and the ruse that, when you asked her to see if he would come there by offering him the money that had been demanding, that ruse, was that your idea or Trooper Pagan's idea?
- SPLAIN: I, I think, I think it was my, I'd say it was my idea.
- JUDGE: Ok. Alright. And what was your intention, what was your intention at that point, should he, should the ruse succeed, and, and you got him back there. What was the, what was your intention at that point?
- SPLAIN: Uh, my, my intention at that point was to arrest him and get him involuntarily committed.
- JUDGE: Ok.
- SPLAIN: And, uh as far as the, the PFI, PFA violation went, you know, that's something that could, you know file, charges could be filed later. My main focus at that point was the, the suicide threats and getting him the help he needed mentally.
- JUDGE: Ok. Sorry to hijack that.
- EVERK: No, that's. So, we left off where uh, you were, the car pulled up in front of the house, or is that what you said?
- SPLAIN: Yeah, I, I, kind of jumped ahead there just because of your question about any other phone calls between Mr. Ardo and his mother, but that's the only other one that I was aware of.
- EVERK: Ok. As you were walking out of the house you heard the phone ring. Um

SPLAIN: No, it's uh

JUDGE: Why don't we go back,

SPLAIN: Yeah.

JUDGE: We go back to the point where um, she called him

SPLAIN: Right.

JUDGE: said, I'll give you the, give you money. He agreed to come back.

SPLAIN: Hmm, hmm.

JUDGE: Then what?

SPLAIN: Uh, then it was uh, a waiting game. We had no idea how long it was going to take him to get there cause we had no idea where he was. Again, we didn't know if he was possibly somewhere on the property cause it's such a large property in a rural area. There's many outbuildings, barns. It's a working horse farm. Um, so at that point, uh me, Trooper Pagan, and Mrs. Monaghan uh, kind of simultaneously all said to each other, well we need to hide our patrol cars because they were parked right out front in a high visibility area. We need to hide our patrol cars, um, somewhere he's not gonna see it when he approaches the residence. So, all three of us stepped out in the front yard area and uh, we were kind of independently looking, initially for the best spot to hide, again, I was kind of at a loss because it was a pretty open area um, and I'd never been there before, and uh, I guess, same with Trooper Pagan. And then Mrs. uh, Monaghan is the one who came up with the idea, she said you have my permission, you can pull your cars through the side yard on the, which would be the east side of the house. Um, and go through the side yard and down into the back yard and park behind the pool area. She said that's probably the most hidden spot, you know that's still close to the house. So, we, myself and Trooper Pagan, evaluated that area quickly and said yeah, we agree it does look like the most tactically advantageous spot to place our cars, to hide our cars. So we immediately drove our cars down there. We parked them so that uh, the, the rear bumpers of our vehicles were up ag, not up against each other, but back, you know, back to back pretty much so that we each could drive opposite directions around the west side and the east side of the house to get back out to Good Rd. if need be in, in a hurry, in an emergency situation. Whatever the case may be. Um, and I know after I, while I was parking my car and when I got out and was walking back to the house, I was taking note to the layout of the, the back yard, the side,

and where, if I had to jump back in my car in a hurry and get, get back out to the roadway, what was going to be the most direct route. Um, so we, we parked the cars and the three of us went back into the house through the front door, on the, the north side of the house.

EVERK: Now was your car turned off at that point, after?

SPLAIN: Yes, I uh, turned my car off because I had no idea how long it was going to take for Mr. Ardo to be there and also the fact that I have a patrol rifle in my car, uh, rifle, rifle rated body armor, a ballistic helmet, um, and a lot of spare ammunition, and knowing that Mr. Ardo is suicidal, um, mentally unstable, and the distance that I was going to be now from my patrol vehicle, being, you know with me being in the house and the car being hidden in the backyard, I did not feel comfortable leaving my car running, that anybody, especially, particularly Mr. Ardo, could smash a window out from my car and have access to a fully loaded police SUV.

EVERK: Now, was your car, when you first arrived on scene, just back it up for a second here.

SPLAIN: Hmm, hmm.

EVERK: When you and Eddie, er Pagan, were on scene in the beginning, were, you weren't parked in the back, was your car turned off at that point, when you got out of the car?

SPLAIN: No, cause I was, I was parked in that small horseshoe lot, just off the front, right along the front side of the house and you know, I was able, I was able to stand, you know, right, just inside that front door on the north side of the house and see my car, and you know, it was a split second away from me, it wasn't, I didn't feel like it was out of my span of control the way I did once we re-parked them in the backyard.

EVERK: The, the, so do you have any idea, I don't know if you were paying attention to the actual time, but about when you went out to move your car to the back?

SPLAIN: Uh, you mean as far as from me initially getting there, how much time til we re-parked the cars. Pheww, if I had to guess, um, five minutes, ten minutes at the most.

EVERK: So, ten minutes after you got there?

SPLAIN: Yeah.

EVERK: Ok.

SPLAIN: It, wasn't long.

EVERK: And, sort of jumping a little bit more past that, is, after you found out, he mentioned about blowing himself up, is there any point that, that you let uh the barr, uh PCO Behler know or any other patrol units?

SPLAIN: Yes. Yeah, I, I put it out over the radio for, uh, as updated information and I got, this is kind of, we haven't covered this yet but at this point, a ping had been done on Mr. Ardo's cell phone and it had placed him in the area of State Route 22 and Route 191. Um, so we had, at that, after that first cell phone ping, I requested that either if, a Belfast unit, if we had one available, cause there's only four of us working that uh shift. Um, either a Belfast unit if there is one available, or a PSP Bethlehem unit, or a Colonial Regional Police Department Unit head to that area and check that area for Mr. Ardo and, and his uh vehicle. Um, so, and then it was after that initial ping was when the, the phone call happened between Mr. Ardo and his mom, where he stated he was going to have a bomb around his neck with nails and that he was going to blow his head off if uh, if he saw any cops. So then I gave that updated information out that he may have an improvised explosive device around his neck and to use, obviously to use caution if contact's made with him.

JUDGE: Did you discuss the uh, when he made that threat, that he would have an explosive device around his neck, did you discuss that with his mother at all?

SPLAIN: I did that, I asked, I asked his mother um if she had any knowledge of Anthony ever experimenting with explosives, um pipe bombs, um and, she, she said that uh, and with a concerned look on her face, she said that he, he did play with fireworks a lot. So, at, at that point I'm thinking, ok, well, fireworks, like most fireworks are explosive, um, you know you could easily combine explosive, a bunch of explosive fireworks together or alter them to uh, you know make them into a bigger explosive device. That's not something that takes a lot of technical skill or knowledge to do. Um, so at that point, I did have a pretty legitimate concern that you know, it might not be a bluff about the bomb. That he might actually you know, might very well have something explosive, either on his person or in his vehicle.

EVERK: So, did you know ahead of time what type of vehicle he was in?

SPLAIN: Yes, eh, eh, I wanted to come back to that. Um, while I was still on station here at the communications desk with PCO Behler, uh, PCO Behler had obtained the uh year, make, model and color of uh Mr. Ardo's vehicle from Ms. Monaghan and PCO Behler told me it was a 1988 Buick

Reatta, blue in color. And I remember thinking to myself what the fuck's a Buick Reatta because I'd never heard of that model of vehicle before and I'm pretty good with, with vehicle makes and models. Um, 13 years of patrol experience, um, so at that point Lenny said he had never heard of it either. So, I pulled out my cell phone. Did a quick Google image search of a 1988 Buick Reatta. It came up with the image of a red '88 Buick Reatta and I said oh, ok. I don't think I've ever seen one of those before. Um, I took a screen shot of it on my cell phone, I have an iPhone. I took a screen shot of it and then I texted Trooper Pagan, who was at this point, he was in route to uh the residence. And I sent, texted him the picture of the care and said hey, while you're in route, keep an eye out for this vehicle, except it's not red, it's blue.

EVERK: So, when the, I had, when the vehicle showed up, who saw the vehicle outside?

SPLAIN: We both did cause were in the process of, I think we were just about to open the front door to exit the residence. Um,

JUDGE: And why were you exiting the residence at that time?

SPLAIN: At that time we were exiting the residence because um after the uh, the, the cell ph, there was two cell phone pings that placed uh Mr. Ardo, as far as we knew, in the area of Rt. 22 and 191. When we asked Ms. Monaghan does he have any known associates there, is there any reason why he'd be in that area, she very quickly said oh yeah, that's real close to where his uh, I think New Beginnings methadone treatment, uh, center is. And I asked Ms. Monaghan is that uh, somewhere that he, you know how often does he visit there and she said he's there once a day every day. And I asked her what, you know, what time of day does he normally go. And she said always first thing in the morning, as soon as he gets up he goes and visits the methadone clinic. Um, so uh, it ended up being Trooper Branosky from PSP Belfast headed over to that area and shortly after he called in over the radio, we and we heard him calling over the radio that he was in that area, you know starting to look for Mr. Ardo, um and/or his vehicle. Um, very briefly after that he got back on the radio and said he was going to be out with a male matching the description of Mr. Ardo. Now in between there, um Trooper Pagan had gotten on the radio and given out an updated physical description of Mr. Ardo, which had been you know provided by his mother. Um, and so once we heard Trooper Branosky say he was going, going to be out with a male matching the description, we kind of started letting out guard down a little bit thinking alright, Trooper Branosky probably found him and then Ms. Monaghan heard the radio traffic and she asked, she said "did they find him?" I told her it sounds like they did. We were just going to wait a few more minutes to make sure, and then, then we'll get out of

here. But then there was a long period of radio silence, and when I say long, to me it seemed long. Um, but it's like, I was expecting to hear Trooper Branosky say ok, you know it's him, I got him, or it's not. But, you know, we didn't hear anything and knowing that there might be uh an explosive device in play, myself and Trooper Pagan got pretty concerned that we weren't hearing any more radio traffic. So at that point we decided let's start making our way back to our patrol vehicles in case we need to start heading down, you know if Nate needs assistance, you know we were concerned for his safety at that point. And so, as we're walking, we were going to exit through the front door, that's the only, only door that uh that we'd use at that point. And just as we got to the door, I don't even know if, if uh, I think, I think Trooper Pagan was ahead of me. I don't even know if his, his hand was on the doorknob yet or not, but just as we're getting ready to open the door, here comes the blue Buick Reatta. Pulls down in front of the house.

SMITH: Alright just stop with that thought. It's a good place to stop. We have to switch discs, ok?

JUDGE: Ok, thank you

EVERK: I gotta take a leak too.

JUDGE: Ok, let's take 5

END OF FIRST RECORDING

SPLAIN: I said I don't want to get shot in the back of the head I want to be able to see out, and then she, she's like, I can see like a light bulb went off in her head like it made sense to her that was it but, um, she did make that com, she was pretty confused like what the hell is this Trooper doing messing with my blinds. Because I couldn't, I didn't get it open on the first, it took me a couple of tugs and I'm like looking at it and finally got it open. That's when she is like are we decorating now. So I don't know if thats

EVERK: Yeah, so let him start the tape back up

SMITH: Ok, you are recording again

EVERK: It's 1400 hours on June 16, 2017 and we are starting back up the interview. Um, Trooper Splain, anything prior to when uh Mr. Ardo arrived at the house, is there anything you want to explain or did you forget to tell.

SPLAIN: Yes, I just uh didn't get a chance to finish my train of thought when I previously brought up the statement that Mr. Ardo had made to PCO Behler over the phone about when you see the fire on the mountain, you'll know it's done. Um, when I had brought up that comment to Mrs. Monaghan uh at her residence and asked her, you know does that have any significance, significance to you and, and she questioned if uh the mountain reference was, you know, to the, the hill that's uh behind the house and barn. I then uh immediately became concerned that that was potentially uh an arson threat. I was thinking that uh possibly Mr. Ardo was thinking about since he'd been kicked out of the house basically, you know, by the PFA that he possibly would burn the house down and then kill himself, or and/or the barn or you know. Um, in, in my mind it just seemed like it, it could've potentially been an, a arson uh you know threat, that uh, he was going to use fire, you know not just to kill himself, but to uh also destroy the property since he couldn't, wasn't allowed to be there anymore. I was just trying to put myself in his irrational frame of mind and just to apply meaning to it and that's what I came up with.

EVERK: So, when he, now we'll go up to when he arrived at the house and you and uh Trooper Pagan were walking outside, what happened at that point?

SPLAIN: So, as soon as we're getting ready to go out the door, Mr. Ardo pulls up on Good roll, Good Road. He's heading east on Good Road uh as he approaches the house. Parks right in front of the house. Pretty much straight out from the front door on the north side.

JUDGE: Now, you're saying this is Mr. Ardo, how do you know this?

SPLAIN: Well, I didn't know this for certain at the time, but later I determined it was him. But the, so I'll say Mr. Ardo's vehicle pulled up to the front of the house and stopped just as we were getting ready to open the front door and exit. Uh, myself and Trooper Pagan both exclaimed, "it's him" and doubled back, like you know, we're almost tripping over each other trying to back up through the mud room and kitchen area um to make our way back to our, our predetermined positions that we had taken up in the sitting room just off the side of the kitchen. Cause the uh, the, the plan was, you know we asked the mom, Mrs. Monaghan, when he arrives, let him come in the house and try and get him to come into the kitchen because there's you know, the kitchen was a large enough area that if we needed to go hands-on with him or you know if he put up some kind of a fight or resistance, it would be a, a better, larger area to uh, uh maneuver in and work in versus if he only, you know came through the front door and stopped in that, that small mud room entry way area. I, I, I didn't want to have to potentially wrestle and fight with somebody in a, in a closet basically. Um, and uh that being the plan, I did, I did advise mom

to do a quick safety sweep of the kitchen to make sure that there was no large kitchen knives or any other items he could potentially use as a weapon, um that he would have access to. At which point, she immediately grabbed two large chef knives out of the, that were laying in the kitchen sink. She pulled them out of the sink, opened up the dishwasher, threw them in the top rack and shut the dishwasher. Um, and then, you know I just did a quick look around myself. I, I didn't see anything else um. I, I also, while we were waiting, I was trying to make conversations to keep things, you know, light and not so serious. I, I asked her, I said, "is there any nicknames or names that Anthony prefers to be called by". Cause I'm thinking in my head if he shows up you know and he's agitated, um you know, if, if he's got a nickname that, you know his best friends or you know close associates refer to him as, maybe that's something that can de-escalate the situation or you know that I can just talk to him on a level that you know, refer to him by you know whatever special nickname he has that'll maybe kind of help calm him down. Um, that, that was my intention. But mom said that no, he just, just Tony is what he goes by.

EVERK: So, when you, when you say you see, you both saw him pull up in front of the house, did you get out the front door?

SPLAIN: No, um, I don't think, I don't think we even had the front door, I think as far as we got was uh Trooper Pagan might have had his hand on the doorknob getting ready to open the door. Like it was that close, but I don't think we ever, I don't think we ever actually opened the door. It was, we were like a split second from opening the door when he, well when the car, his car, Buick rolls up and stops.

EVERK: And how did you see the car?

SPLAIN: Through the, because I'd opened the, the, the blind on that, that window for that door and you could see straight out, you know he parked pretty much directly out from that, that door. And uh, partially on the roadway and partially in like the front, the front lawn area. So, and we, like as soon as we saw the car we you know started back pedaling and we both, you know, out loud said, "it's him" and Trooper Pagan got on his radio quick. I don't know if it went through, cause radio reception is kind of spotty in that area. Uh, Trooper Pagan at least attempted to notify station that hey he's here.

JUDGE: At that point, could you see any occupant, or occupants of the vehicle?

SPLAIN: No, I, I don't remember being able to see, um, see directly into the vehicle because there's um low hanging trees, um, that I would've had to probably almost get down like on my knees, on that level to see underneath the low hanging tree branches. Um, but you know, you, you could clearly see the car and it was you know a, a 1988 Buick Reatta is very distinct, you don't see a whole lot of those, so, that's, we assumed instantly, you know, hey it's him.

JUDGE: Ok, and you were actually leaving at that time to go back up Trooper Branosky.

SPLAIN: Because

JUDGE: Alright, so you haven't received information that the person that he had stopped was not

SPLAIN: Right, at that point we had not received any

JUDGE: Ok

SPLAIN: updated information that it was not him.

JUDGE: Ok.

EVERK: And what happened after you guys back pedaled into the mud room?

SPLAIN: So, we back pedal, we retreat to our initial positions that we had been in in that, a, sitting room in the northeast side of the house, just off the side of the kitchen. Which, um, and then his, his mother, Mrs. Monaghan, she walked back through the kitchen and went into the, I want to call the living room that goes, you know straight, straight back out of the kitchen into the rear of the residence.

JUDGE: That's the one that overlooks the pool?

SPLAIN: Yeah, it's a, a, it's a, the, the walls are like all windows, huge viewing windows. Um and I remember, you know, in that moment, um thinking you know I'm impressed that she's remembering our original plan and appears to be sticking with it. Um, because, you know I'm assuming she's going deeper into the house to make sure that Mr. Ardo comes into the kitchen at least. Like we had discussed. Um, so, I, um, at that point, uh Trooper Pagan and I were looking out the, the front windows, somewhere on the north side of the house that, for a view of uh, of the Buick. And the Buick was just sitting there running and um, you, pretty sure at that point we could, we could see um that there was one person in it. Um, it was a dark overcast rainy day, um the uh, there was shade

from the trees as well. So, the lighting was not great. Plus the reflection of the, the overcast lighting off the windshield and the, the rain drops that had, that were on the windshields, water beads. Um, you couldn't make out a face, but you could see there's, what appeared to be, one dark male figure, um, in, in the driver's seat of the vehicle um, and, and that was it. Um, the, the windows were up, the vehicle was running, no one ever exited the vehicle. Didn't hear any car doors open or shut. Um, it, it just sat there for 30 seconds maybe and I remember thinking at that point, like great, he's probably gonna make his mom walk the money out to him. He's not even gonna get out of the car. So at that point then my mind's racing about, ok should we, do we let mom, if that's the case, do we let mom take the money out to him. Um, and then hopefully he leaves and then we run out, bolt out to our cars and try to do a traffic stop on him. Um, do we try and get mom to call him and get him to come into the house. Should one of us stay here in the house and one of us run out to the patrol car and get ready in case you know he ends up somehow spotting us or just getting the feeling that somethings not right and decides to just take off. Uh, but before my mind could finish processing all those different possible options and what I thought the best, best option would be, I hear the mom's cell phone ring and she says, "it's him". Now at that same point in time, the Buick goes, starts going in reverse. Backing up Good Road, um, going west on the eastbound side of the roadway and Trooper Pagan and I are both watching it through the window and I'm like, you know I'm thinking to myself where's he going and then I realize well, the main driveway, what I consider the main driveway entrance was behind him. So, I'm thinking alright maybe he's just going to back up to the main drive entrance and turn right, right into the driveway, come park in the driveway. Um, the problem was if he got any, once backed up past that driveway entrance, because of the trees with the low hanging branches and shrubbery at the end of the driveway and in the front yard, um, you couldn't see the vehicle anymore once he backed past the drive entrance, which he did. So, I gave it a couple seconds, thinking well, you kind of have to back past it in order to pull into it. We waited a couple seconds, but then he never actually pulled into the driveway. So, at that point, he's out of our site. I don't know if he has done a, a, a u-turn and left or what's going on. So, Eddie and I, sorry, Trooper Pagan, simultaneously kinda looked at each other and like let's bolt to the cars. So, we go out the side door to that, that sitting room area, which is the, that door is located on the east side of the house. So, that opens right out into the side yard. We bolted out that, through the back yard, through the pool area, to our patrol vehicles, jump in them. We both had a, a, I can't speak for Trooper Pagan, but I know I had to put the key in my ignition, start my car back up, and then uh I immediately pulled forward, heading west, around the west side of the house, which links up with, with what I consider the main driveway and heads right out, uh, it's a slight incline up, and then right up on to Good Rd. As I'm

coming up the driveway, I'm about halfway up the driveway and I see the Buick traveling east now on Good Rd., like reapproaching the residence and I'm thinking, oh crap, he's now gonna be pulling in the driveway. He's coming at me, he's going to be coming at me head-on, and we're, we're like on top of each other. I threw my emergency lights on and at that point the Buick kind of straightens out and drives past the driveway entrance, starts to pull off to the side, to the, like into the front yard area, the edge of the roadway. And at that point, I follow, I come out of the, exit the driveway and stop my patrol vehicle on an angle kind of facing northeast, trying to like block the roadway as best I could. I mean it was wide enough if he wanted to throw it in reverse and back around me he could've. But, um, I uh, I did the best I could as quickly as I could to try and block the roadway off and then at the same time, Trooper Pagan came around from the east side of the house and came at Mr. Ardo's Buick you know, head-on and ended up stopping, you know facing it, facing the Buick head-on maybe, I don't know if maybe five yards off the front bumper, you know they were facing each other. I mean I can keep going, I don't know if, unless you want to stop me and ask questions.

EVERK: I just want to back up here. When he shows up at the house, um, what, I'm trying to figure out like a timeline here. Is uh, you said Trooper Pagan may have said on the radio that the car's here, you don't know if it got out. Um, when, how long does this take place? Was it 30 seconds, one minute, uh, this whole, from when he arrived to I would say when he, when you guys were in your cars?

SPLAIN: When he pulled up til when we were jumping in our cars, I would say it was probably, it was probably only like two or three minutes. It was, it was quick. Yeah, I would say three minutes at the most. That's being, I think that's probably being generous.

JUDGE: And you, and you both went to your cars because he was no longer in your line of sight.

SPLAIN: Yeah, we no longer had a visual on him, didn't know, you know, what he was, where he'd gone or what he was doing so. At that point, I was anticipating a traffic stop or a pursuit with him. Uh, I'm thinking that he's driving, you know I'm picturing you know, he's driving away from the residence at that point. You know, heading west on Good Rd.

EVERK: Alright. And I, I listened to the radio tapes and, and times and so forth. That's why, that's why I'm asking. It's, it's very short period of time. Um did Eddie call, do you know if Trooper Pagan tried to call over the radio more than once out, that, that he was on scene.

SPLAIN: That, I don't, no I don't know that. I don't recall that.

EVERK: Alright. So, after, after you said where you positioned your cars, you both stopped your cars blocking him, what happened?

SPLAIN: Uh, as soon as, soon as I got my, my uh car in park and Eddie was, sorry, Trooper Pagan, was simultaneously parking his, his vehicle, I immediately exited my patrol vehicle, drew my service weapon, um pointed in the direction of the Buick and started shouting verbal commands, "show me your hands, show me your hands, let me see your hands" um and at that point in time I observed that there's only occupant of the vehicle was what appeared to be a male uh driver. Um, want me to keep going or?

EVERK: Yeah, keep going.

SPLAIN: Um, he, after, I probably said it three or four times, you know, "show me your hands, show me your hands, let me see your hands", uh, no compliance. I could see, all I could see of him because of my position, I was I want to say maybe three, three yards or so off of the rear bumper of the Buick on the driver's side. Um, between my patrol vehicle and the rear of the Buick, and because of the seatback of the driver's seat of the Buick and the headrest, pretty much all I could see of um whom I'm assuming is Mr. Ardo, and certainly from what I can see at this point, matches the description that, that I had been given at that point. All I could see is his head and a little bit of the tops of his shoulders. Um, he never complied with my commands to show me your hands and stick his hands up in the air, but I could see a lot of small furtive movements between like his head and shoulders. I couldn't tell what he was doing, all I could tell was that he was moving, and not following my commands. Um, after the, the failed compliance with the "show me your hands, show me your hands" then I gave the commands "get out of the car, get on the ground, get out of the car, get on the ground". I said it at least twice. Um, again, no uh, no compliance. The, the driver's door never opened, um all the windows on the car were up, um and at that point, Trooper, Trooper Pagan, when he initially exited his patrol vehicle, you know because he was head-on facing Mr. Ardo's vehicle, Trooper Pagan, his initial position he took up was um just off the front passenger side bumper of the Buick. And as I'm giving commands, I'm cognizant of where Trooper Pagan's standing and it's going through my mind, you know we've got a bad crossfire situation here, if, if this turns into a gun fight. Um, and I'm just getting ready to yell to Trooper Pagan, you know, "hey, move", but Trooper Pagan realized you know the same thing at the same time on his own and ended up repositioning himself. He moved between his car, his patrol vehicle and the Buick, between the two front bumpers, you know he headed over towards the driver's side of the vehicle then. Um, and positioned himself on the driver's side, I'd say about 90 degrees

off the like, right off the driver's door. And Trooper Pagan has his service weapon out as well, and at that point I asked Trooper Pagan, "does he have something?" Meaning, do you see a weapon, a bomb, a gun or whatever and Trooper Pagan's eyes got as huge as, huge as saucers and he looks at me, I make brief eye contact with him. He looks at me and his eyes are huge and he's got this look of sheer terror on his face and he says YES! And no sooner did yes roll off of Trooper Pagan's tongue and I see, I assume it was the left hand because it was on the left side of Ardo's body, but it could have been, looking back now, it could have been his right hand if he was reaching across himself. I see a hand in a clenched fist, uh, come up on the left side of Mr. Ardo's head and neck area and I see a lighter spark and a flame. And at that point I yelled "shoot him!". And I don't know who fired first or if we both fired simultaneously but myself and Trooper Pagan opened fire. Um, Trooper Pagan fired two rounds. I remember seeing his two shell casings, um as well as hearing the reports of his shots, but I remember seeing in my peripheral vision his shell casings glinting in the air cause they're silver colored. Um, and at that point I fired six rounds in rapid succession through the uh rear windshield of the Buick on the, the driver's side.

EVERK: The, the uh, I just want to clarify here. You yelled at Pagan do you see some, uh does he have something. Um, and you said in your mind if it's a device or I don't know what you say.

SPLAIN: Yeah, it's some, any kind of a weapon.

EVERK: Would Eddie have known what you were talking about, 'er Trooper Pagan.

SPLAIN: Yes, yeah, he would've known. Cause, if he wouldn't have known, I would've been more specific, but we were all, we were on the same page, you know, he was fully aware of everything just like I was. You know, the, the threat of the, the a bomb and he had heard you know the statements about you know, I'm gonna get a gun and blow my head off and um

EVERK: Ok, and when was, was uh Pagan, before, even before that, was he making verbal commands too?

SPLAIN: I believe he was repeating my commands, like I gave the commands first and then Trooper Pagan also repeated the same command, at, at least once that I can remember.

JUDGE: You said that you were positioned off to the driver's side, um, if, if the driver, if Mr. Ardo was the hub of a clock, what, what degree, like were you at five o'clock, were you at 4 o'clock?

SPLAIN: Ok, so Mr. Ardo is 11 o'clock, like the dead center of the front end of the vehicle is 12.

JUDGE: Ok.

SPLAIN: So the driver's seat will be 11 we'll say. Um, I would say I was probably at 7.

JUDGE: Ok.

SPLAIN: 7 o'clock. Yeah, 7.

JUDGE: Ok, and you said the verbal commands that you, you gave, and I don't want to put words in your mouth, um, but you did mention that, "show me your hands"

SPLAIN: Yes.

JUDGE: And then later on at least twice you said?

SPLAIN: "get out of the car, get on the ground".

JUDGE: Ok. At any time did you identify yourself as a police officer or say state police, or police, or state trooper at all.

SPLAIN: Honestly, I'm not sur, I want to say I think I did say "State Police, let me see your hands, show me your hands", but I, that, that part I don't, I don't remember for certain. I just remember shouting the commands.

JUDGE: If, if, if um, if base, well let me ask you this, based on where Trooper Pagan um was positioned initially, up on the passenger's side corner

SPLAIN: Right.

JUDGE: Um, I don't think we touched on this but, you were in full uniform, was he also in full uniform?

SPLAIN: Yeah.

JUDGE: And was he also in a marked unit?

SPLAIN: Fully marked. SUV

JUDGE: Ok, would he have passed in front of, you said he went between his car and Mr. Ardo's?

SPLAIN: Yes.

JUDGE: Alright. So, he passed in between the cars, presumably through

SPLAIN: Directly in front of

JUDGE: his field of vision?

SPLAIN: Yeah.

JUDGE: OK.

SPLAIN: And, um, I had my emergency lights on, on my vehicle as well, and the angle that my vehicle was parked, you know across the roadway behind Mr. Ardo's Buick, um, there definitely should not have been any question that, you know he should have been able to see all of the markings on the fully marked unit because of the car being on an angle versus a regular traffic stop, which kind of, all you can see is the front end and the lights on the top.

JUDGE: Ok.

EVERK: Did he say anything, as you were commanding did you hear him say anything?

SPLAIN: No.

EVERK: And when you said you can see a spark or flame, did you say you saw that through the back window?

SPLAIN: Yes.

EVERK: You said you were at 7 o'clock, so are you seeing through the back window?

SPLAIN: Yeah, I'm looking through the rear windshield.

EVERK: Rear windshield, ok.

JUDGE: You said, and, and I'm not, we don't want to presume anything. What, you said that once you saw the flame and the spark

SPLAIN: Hmm, hmm.

JUDGE: Why, why did you tell Trooper Pagan to shoot?

SPLAIN: Because when I asked Pagan does he have something, the reaction Trooper Pagan gave me with just the look on his face and in his eyes, and the way that he also um, he started backing away from the vehicle as he's saying, "YES", that combined with Mr. Ardo's statement that he was going to have a bomb filled with nails around his neck and that he would blow himself up in front of his mom and if he saw any cops he would blow himself up, all those things combined together, at that point in time, I believed he was lighting a bomb and that we were all going to be blown up.

JUDGE: Ok. So, by telling Trooper Pagan to shoot and you shooting yourself, what was it you hoped to accomplish?

SPLAIN: To immediately stop his action of lighting a bomb.

JUDGE: Ok. When, you said that, you, you think Trooper Pagan fired two shots?

SPLAIN: Yeah, I know he fired at least two.

JUDGE: At least two.

SPLAIN: That's what I remember.

JUDGE: Ok. And I think you said you fired...

SPLAIN: Six

JUDGE: Six shots

SPLAIN: Initially, yes.

JUDGE: Is that, are you sure of that fact?

SPLAIN: Um, I, I didn't know exactly how many until I re-watched the MVR footage prior to this, this interview today. Um, but I did know that if I would've had to guess before watching the MVR footage, I, I would have said four or five shots. Um, I can explain the reason

JUDGE: Well, I was going to say, why four or five shots? Why not one shot? Why not emptying your service weapon?

SPLAIN: Ok. Uh the reason why I fired the six shots, uh, is because I, based on my training and research, I know that anytime you're shooting through auto glass and/or automobile sheet metal doors, it requires multiple rounds, um, to hit your intended target because of uh, you have multiple issues of bullet deflection, based on the angle of the auto glass, the, as well, is compounded with the angle that the shot is coming from so the position of the shooter, um, you have issues with bullet jackets separating as they pass through auto glass and auto sheet metal, um, so and all these factors end up deflecting your bullets and not necessarily hitting where you're aiming. So, being that I was firing through the glass, I knew that my first couple rounds, I wasn't counting on them hitting my intended target. I was counting on them as pretty much creating an opening or hole through the glass that then the following rounds would be able to pass through freely without any interference and strike my intended target without being deflected.

JUDGE: Did you see any reaction or was there, did you, did you make any conclusions as to whether or not any of your rounds hit the target.

SPLAIN: Um, I assume that I did because, I, the, the reason why I stopped after six rounds, I had 11 in my weapon, there's 10 in the magazine and one in the chamber to start with. The reason why I stopped is cause as I, as I'm firing, Mr. Ardo starts leaning to his right across the passenger seat, and I'm tracking him as I'm firing and as he disappears, he disappears from my view. At which point I cease firing because I no longer have a target to fire at. And, I'm assuming I either hit him and you know that's why he went down or he's taking cover. So, um at that point I can no longer see him now from where I'm at. So, initially I start moving, side stepping to my right because I was going to approach the vehicle then on the passenger side. Uh, and my think, the reason why I did that was because if Mr. Ardo would pop back up, um, and he had a gun, since that was mentioned, I'm assuming that he's most likely gonna be aiming and firing where he last knew where I was at. Which was on the driver's side. So, initially my intention was to approach the vehicle on the passenger side and as I star, just as I started to do that I realized if I do that, Eddie and I, Trooper Pagan and I are going to be in a crossfire situation again. So, I reverse, I start coming back again towards the driver's side. I start, as I'm, I think I only took one or two steps out, up along the side of the car approaching the driver's door. And at that point, Mr. Ardo immediately pops right back up and he doesn't have his hands up. He doesn't say, you know, ok, ok, I give up. And I immediately re-engaged with three rounds, a quick three round burst. Um, because I was still in fear that he, he did not appear to be incapacitated in any way and I was still in fear that you know we were all going to be blown up. So, he still had full function, as far as I was able to tell just based on how quickly he sat up and you know there was no hands in the air or you know, um and,

and no statements at that point, which I would have been able to hear him because I was very close, at that point, to the vehicle. As well as having the, the back window shot out. Well, not completely shot out, but you know I had a decent sized hole from my rounds passing through the rear windshield that if he would have said anything I don't see any reason why I wouldn't have heard it.

EVERK: Instead of, when Eddie came out to the side, you were behind him and you said shoot, or when you saw Eddie's eyes get real big

SPLAIN: Hmm, hmm.

EVERK: Uh, you think he has a device. Why engage him? What would be your reasoning? Why not, let's back away from this or take off?

SPLAIN: The reason why I decided to engage him versus trying to uh retreat was because based on my department training, minimum safe distance from any suspicious package or suspected explosive device is three hundred meters. I was maybe five yards from Mr. Ardo. I cannot cover three hundred meters sprinting in a split second if he decides to you know detonate his device. Um, I also, I can't get in my patrol car in a split second and drive three hundred meters away in even a couple seconds. So, at that point, it was, it's a do or die situation where if I'm, I believe I'm about to be blown up, seriously injured or killed, um, I'm not gonna die running away. I'm gonna at least die trying to do something about it.

EVERK: Do you have any more questions about the

JUDGE: When you uh, well just to go back. You said you fired, was it three more rounds?

SPLAIN: Yes.

JUDGE: And that was when he popped back up?

SPLAIN: That was, yeah, yeah,

JUDGE: Ok.

SPLAIN: and it was only about um three seconds between my first six rounds, him going down, and him coming back up and me firing, um.

JUDGE: At any time, and I, I don't want to get ahead, but at any time up until that point did Mr. Ardo make any attempts as far as you could tell, did you hear him say anything? Did he make any motions whatsoever?

SPLAIN: No.

JUDGE: Any, any efforts at communication with you or, or either Trooper Pagan that you could tell?

SPLAIN: No, he did not.

JUDGE: Ok.

EVERK: And, and blocking him in, verse letting him go at that point, the reasoning?

SPLAIN: Um, it wasn't necessarily, it wasn't, um, I didn't know how Trooper Pagan was going to approach. Uh, I at least knew that, I can at least do my best to block the area behind him, um cause, again, at least, if, if, if he's gonna try and flee in his vehicle and it ends up being a pursuit, at least I know it's most likely going to be going away from and you know he's not going to be backing up. Because I have that route blocked as best as could. Again, if he wanted to he could've. I didn't have the entire roadway blocked off. My car's not that long. Um, but it, it just in the split second that I had to make that call it just seemed like the best options. Because again, I didn't know how Trooper Pagan was going to position his vehicle.

EVERK: Ok. And then after, um, and you fired your three more shots, uhhh, did you attempt first aid? What happened after that?

SPLAIN: (inaudible) my uh, it would have been rounds seven, eight, and nine, uh just paused briefly. I could see at that point that um, he had kind of, went, slumped in the seat and went limp. Wasn't uh, wasn't moving and was kind of listing a little bit towards his, his right side. Um, gave commands, don't move, don't move. I approached the driver's door. I, I uh grabbed the door handle. It was unlocked. Popped the door open, at which point, you know, I could see there's, Mr. Ardo's hands. Didn't see anything in his hands. Immediately noticed a strong smell of blood. He was bleeding profusely from his uh nose and mouth. There's a lot of blood on the back of his head. Uh, cause he was leaning to his right, there was a large pool of blood forming, kind of, like in, I guess like in the area between the two front seats, that area. The center console if you want to call it that. There's blood spatter on the uh the inside of the front windshield and, and dashboard. Um, and then at that point, and I also see that he's got a device with a fuse on it around his neck. It was actually the, the fuse was tied through the hole and his shirt collar. He was wearing, it was like a waffle knit, I think it was brown, it was a dark colored waffle knit, like long john type shirt, thermal shirt. And um, so at that point I could tell, he's struggling to breathe. He's still alive. His eyes are open. He, gurgling blood. I'm telling him don't move. I then decided

you know we need to get him out of the car in order to start administering first aid and also to continue to assess whether he has any other devices on him or any other weapons, you know like a gun in his waistband, a pocket or whatever. So, I, I uh grab a hold of his uh, left sleeve in the shoulder area and he was wearing a ball, I think it was a black ball cap. So I kind of grabbed that, like the top of his head cause I was trying to find the least blood soaked spot on his person to grab him to pull him out of the car. And so I grabbed his left shoulder and top of his head and pull him out. He falls to his left side onto the ground. He, he stated you know through gurgled blood that, um "I can't breathe" or "can't breathe. Cause my initial plan was you know, as soon as I got him on the ground, try to get him handcuffed, try to get him secured so he wouldn't be able to access what was around his neck or any other weapons that I had found yet on this person. But once he said he couldn't breathe I immediately abandoned the plan to get him handcuffed and just figured I could control his hands and arms you know just physically myself. Um, and I rolled him, instead of putting him on his face down, to handcuff him behind his back, I rolled him on to his left side in a, what I considered a modified recovery position that were taught in like first aid. To try and assist with his, with his breathing. That's the best position for somebody who's injured and having difficulty breathing, is the position on their side. So at that point, once he's on his side, um, blood's just continuing to just pour out of his nose and mouth. Um, I started just doing a visual assessment of looking at his clothing, his body, just trying to see if anything stands out as far as like he might have a gun under his shirt, or you know in his waistband or uh, any other explosive devices on him. Uh, I didn't see anything and I'm also trying to still figure out what the hell is around his neck, uh as far, you know is it still a danger to us. You know, is it something I can move if need be without setting it off or um. So, after doing that assessment, I determined that to the best of my ability, it appeared the only thing he had on him was the, the uh explosive around his neck. Umm, I could feel, because I'm holding onto his, his uh right arm, I ended up bending that, getting it positioned behind him to control that and he's kind of, he was laying, cause he's laying on his left side, he's laying on his left arm so that's, you can't really do too much with that. And I can just feel like, like there's not any tension in his muscles like he's fighting or he's going to try to resist at all. Um, so then at that point, I uh, decided alright, I believe it's safe enough for us to start administering first aid. I asked Trooper Pagan to uh retrieve the first aid kit out of his patrol vehicle. Um, and then I also realized that I had my, my tactical, my patrol gloves on at that time, which are just like a synthetic leather and canvas. Um, so they're not blood, they're not going to protect me from blood exposure. So, at that point I stood up. I took my patrol gloves off, reached in my left trouser pocket and I had, I always keep two pairs of latex gloves in my left trouser pocket. So, I, I pulled those out and put them on. Trooper Pagan didn't have any so I gave the second pair to

him. Um, got gloved up. I ran back over to my car. Threw my patrol gloves on the hood of my car and retrieved the individual first aid kit out of the driver's door pocket of my car. Uh, ran back up to Mr. Ardo. I got the uh, the uh trauma shears out of the first aid kit. I could see a, a bullet entry wound on the rear of his left shoulder. Um, so at that point I decided to use the shears to cut the back of his shirt, to remove his shirt, so I could, so I could better address and evaluate if that was his only wound or if there's other bullet holes, bullet wounds that I hadn't seen. I get the shirt cut off and, by the way, the department trauma shears suck. Um, and finally get the shirt cut off of him with a lot of aggravation and all I see is, on his back, is the entry wound on his left, back of his left shoulder. He also had some super, what I considered at the time, to be superficial wounds across the entire portion of his upper shoulder area, which Trooper Pagan noticed it too and asked what that was and um, it appeared to be like glass shards from my rounds turning the auto glass into high speed projectiles and um appeared to be just superficial, a bunch of like uh, maybe a hundred, small puncture marks, um, from the many glass shards hitting him in the back as well. Uh, so at that point Trooper Pagan removed the combat gauze out of the uh first aid kit, handed it to me and I immediately started packing the combat gauze into the entry wound on Mr. Ardo's left rear shoulder. I was also, uh, while doing that I continued to look at his uh, his head because I was pretty certain that he had a wound somewhere on his head too. Um, because that's where I'd been aiming and uh, there was a lot of blood on the backside of his head. I didn't immediately see any obvious holes or entry, eh, bullet entry wounds on his head, but uh, I did end up finding, a short time later, a volunteer fire fighter, who's a lieutenant uh, with uh, Lower Mount Bethel Fire Company. He's an EMT as well. He showed up on scene uh prior to EMS and said "Hey, I'm an EMT. What do you guys need?" And, and I said yeah we could use your help and it was, once he was there and doing his assessment on Mr. Ardo that's when I located the uh bullet entry wound underneath Mr. Ardo's left ear. Um,

JUDGE: How did, how did that, that uh EMT happen to come across

SPLAIN: he

JUDGE: Did you or Trooper Pagan request

SPLAIN: Oh, you, well yeah. Immediately after I fired my last, my final three rounds and then I got on my portable radio and um said shots fired, send EMS. Um, so he had, he uh, this fire fighter/EMT he heard go out over county radio cause he has county radio in his, his vehicle, his personal vehicle. Um, and I guess, I'm assuming based on where he was at, at that point in time, he was much, he knew versus going to the station and getting on a truck and coming, he knew it would be a lot quicker if he just

went in his personal vehicle, came directly to the scene. I mean, and he has, he has blue lights on his vehicle. So, um, cause we initially thought it was fire police showing up. Cause we were gonna turn him away and just tell him, to block, keep the intersection blocked down there with Lower South Main Street and Good Road. But that's when he, he, I heard him yell, "I'm an EMT. Can I help?" And we were like, yes, come on help us out. So.

JUDGE: Ok. Did, did, did anyone request an ambulance service prior to shots being fired at all. I know sometimes police will

SPLAIN: No

JUDGE: request one if their contemplating a 302 commitment.

SPLAIN: Yeah, well, we, we never did because um, we had no clue where he was at. We weren't expecting um, initially we weren't expecting to uh, to have contact with him. But then once you know we came up with the idea of having him come to the residence to get money um from his mother, we still weren't anticipating anything like this. So, maybe it was an over sight and we should have contacted EMS and at least have them on stand by, but again, we didn't if he was going to show up. We didn't know how long it was gonna, if he was, he could've still been on the property for all we knew and he could've been there two seconds and you know ambulance wouldn't have been anywhere near. So, eh, um, just with all the unknowns, we didn't, we didn't think to uh request EMS.

JUDGE: Ok.

EVERK: Do you have any more questions with the uh, from the shooting, previous?

JUDGE: What, what do you mean?

EVERK: I was going to ask some other questions but

JUDGE: Did Mr. Ardo make any statements other than the I can't breathe? The comment after he had been shot. Were there any statements, did he make any statements whatsoever? I mean, obviously he was talking to his mom on the phone, but I'm talking about

SPLAIN: Yeah.

JUDGE: once he arrived on scene, you knew he was on scene.

SPLAIN: No, no, no once from the point he arrived on scene to the point we were administering first aid, uh, he never made any statements to uh, to us or anybody else that I know of.

JUDGE: Up until the time that EM, the EMT showed up, the volunteer fire fighter showed up on scene, other than yourself, Trooper Pagan, and Mrs. Monaghan, did you see anyone else on the property?

SPLAIN: Yes. There was a woman that Trooper Pagan and I both kind of crossed paths with, when, after we initially repositioned our cars in the back yard behind the pool. As we were walking back up the driveway to go into the house, um the, say like in the middle of the driveway, there was a woman that was walking across the driveway and she asked is everything alright cause I think we kind of surprised her. Two troopers in uniform all of a sudden appear from the back side of the house and as we're walking up the driveway and uh Trooper Pagan answered, he said, "Yeah, we're just visiting, no big deal" and that was it. She just continued on her way. I didn't take note of where she actually ended up going. Also, while I was initially responding there, as I was driving up to the residence, I noticed there was horses out in the pasture. I remember seeing a male in the one pasture and then the pasture that's directly across the street from the house on Good Road, um, there was, I remember seeing a female leading a group of, I want to say it was like three, four, five horses, uh, through the pasture. Um, there was, I mean there was a lot of vehicles around I remember.

SMITH: Just wrap up your thought. It's time to switch tapes again

JUDGE: Okay

EVERK: You stopping it now

SMITH: He can finish his thought then give me a thumbs up and then just wait 10 seconds to stop the tape

SPLAIN: But yeah, I did notice it was a working horse farm. It was a Saturday morning so people were at the farm dealing with their horses and I did see other people around and, and a lot of other vehicles as well.

JUDGE: Did you, you or Trooper Pagan have the opportunity to identify those people?

SPLAIN: No.

EVERK: Alright, we'll stop here for a minute. Um, its 1450 hours and we're going to turn of the tape and Trooper Smith's going to turn off the other tape.

END OF SECOND RECORDING

EVERK: It's 2:58 p.m. on June 16, 2017 for the beginning of the third recording.

EVERK: I just have some off related questions. Uh, after uh EMS came and so forth, did you or any member of our department of the State Police secure the scene?

SPLAIN: Um, Trooper Stepanski was the uh first one to arrive on scene, you know, other than us, myself and Trooper Pagan. Once he arrived on scene, uh, he, he took control uh, as far as uh, and the fire company had already taken upon themselves setting up crime scene tape because I remember Trooper Stepanski asking, pretty sure, yeah asking us, or asking me, how much of the, like what area needs to be taped off. And, I said just this immediate area right here is where everything happened. Um, I know he uh he ended up starting the crime scene entry log. Um, uh Trooper Branosky got there shortly after Trooper Stepanski and um I spoke with Trooper Branosky and told him at that point I'd seen three or four people standing um just west of the uh driveway entrance, the main driveway, uh, up, like near the barn, standing near the edge of the roadway looking at the scene and I immediately pointed them out to Trooper Branosky and said "hey, I said we might have potential witnesses up there. Go get their info and statements, see if they're witnesses or not". I think I said I don't know if they saw anything or heard anything, but just go talk to them.

EVERK: Did uh, Stepanski was there, Branosky. You are, you didn't see any one else, no evidence was removed, nothing was altered?

SPLAIN: The only thing that was altered was the uh, the uh firefighter EMT that showed up on scene first to assist us, um, I think his first name is Steve, Stephen. He asked for permission to move the device because when he decided to start CPR, he said hey, I gotta move this thing to do CPR, is that alright? I said yeah, that's fine, just, don't lose, I said it's evidence so, he said it's fine I'm just going to set it down right down here in the grass by the edge of the roadway.

JUDGE: Is there any reason that you thought that at that point it was safe to manipulate the device around his neck?

SPLAIN: The, the, the, it hadn't blown up at that point, the fuse wasn't lit. I didn't see anything like, that like uh, a trip wire attached to it, like if you removed it, it would set itself off. You know based on my limited knowledge and interaction with it, um, it appeared at that point in time the only way it was going to explode as far as I could tell, is if you put fire to the fuse and lit the fuse. So, at that point I said yeah, yeah, it's fine. Go ahead and move it. Do what you gotta do.

JUDGE: Ok.

EVERK: during the shift, on May 20th prior to the incident, during the incident, you weren't under or were you under the influence of any drugs or alcohol?

SPLAIN: No.

EVERK: Ok, uh, what was your shift the day before? Do you remember?

SPLAIN: Um, pretty, day before? Um, I think I was day shift that day as well. I'm not certain though.

EVERK: Do you remember, did you get adequate sleep that night?

SPLAIN: Yes, probably about, well with a two year old and a seven month old at home, a good night's sleep is five hours, five and a half hours. Um, anywhere from five to six hours is a full night's sleep for me at this point.

EVERK: And uh, is there anything, any subject or piece of information that myself or Trooper Judge didn't ask you about or you feel we missed?

SPLAIN: Um, no, I mean, other than the fact, I don't know if I, if I made this uh clear or not, you know I was mainly concerned about preventing the suicide. You know that was my first concern with Mr. Ardo. Second concern, which, you know, I wasn't going to be the arresting officer, but you know the second issue was the PFA violation. Um, and you know it's also concern for the safety of his mother, um, and her property. Cause again, going back to the where I thought that the statement he made about the fire on the mountain possibly being an arson threat, or cloaked arson threat, you know I was definitely concerned about the safety and welfare of his mother's property and herself as well. Especially after hearing him on the phone blaming her for all of his problems and uh and stating he was you know if he was going to blow his head off, he was going to make her watch it. You know, like, it was like he wanted to punish her. So um all those things combined, I was definitely concerned for, I was there to protect her as well.

EVERK: And you've had Use of Force Training with State Police?

SPLAIN: Yes.

EVERK: Ok. And in the course of your duties, in the past, you've worked 13 years, uh, have you ever had to use deadly force in the, as part of your duties?

SPLAIN: Yes, I have.

JUDGE: And that was investigated?

SPLAIN: Yes, it was.

JUDGE: Ok.

EVERK: Where, where were you stationed at that time?

SPLAIN: I was at Bethlehem. PSP Bethlehem.

EVERK: And the uh, who would've been the criminal investigator?

SPLAIN: That would be Trooper Bellesfield and uh Trooper Egan. I believe Trooper Bellesfield was the lead on that one. Trooper Egan was assisting.

EVERK: I don't have any more. Do you have any?

JUDGE: I don't think so. Mr. Asteak?

AZTEC: These are your questions gentlemen.

EVERK: Have you answered all the questions, uh, given you today, completely and honestly today?

SPLAIN: Yes.

EVERK: Ok. It is 3:06 p.m. Going to turn off the tapes.

TPR.

EDDIE PAGAN

Interview

SP 7-0019 (9-99)

PENNSYLVANIA STATE POLICE
RIGHTS WARNING AND WAIVER

INCIDENT NO.: PA2017-516047

ME: 1253 PMS DATE: 06/20/17

PLACE: PA State Police - Belfast Barracks

My name is Trooper Michael EVERK of the Pennsylvania State Police.

(OFFICER'S NAME)

You have an absolute right to remain silent and anything you say can and will be used against you in a court of law. You also have the right to talk to an attorney before and have an attorney present with you during questioning. If you cannot afford to hire an attorney, one will be appointed to represent you without charge before questioning, if you so desire. If you do decide to answer questions, you may stop any time you wish and you cannot be forced to continue.

WAIVER

I fully understand the statement warning me of my rights and I am willing to answer questions. I do not want an attorney, and I understand that I may stop answering questions any time during the questioning. No promises have been made to me, nor have I been threatened in any manner.

SIGNATURE

WITNESS(ES)

SIGNATURE OF WITNESS(ES)

SIGNATURE OF OFFICER

DEF0000225

EXHIBIT 8

SP 7-0019 (9-99)

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WAIVER

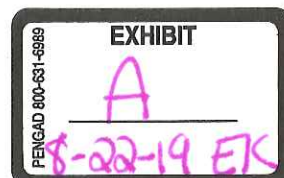
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SIGNATURE

WITNESS(ES)

SIGNATURE OF WITNESS(ES)

SIGNATURE OF OFFICER



DEF0000225

Incident #: PA2017-516047

Date: 06/20/17

Trooper Eddie PAGAN interview

Video

EVERK: It says 1254

JUDGE: You starting it?

EVERK: I'm just trying to get, trying to figure out the

MINOTTI: Here?

JUDGE: Yeah.

PAGAN: Where we usually?

EVERK: You can sit right there.

JUDGE: Mike's gonna be doing most of the talking so

PAGAN: Ok, so I'll be head on with Mike.

EVERK: I think Matt's going to let us know when he starts here.

JUDGE: I'll just make sure he has it going.

PAGAN: It's just gonna be you inside?

EVERK: What?

PAGAN: Just you inside here?

EVERK: No, Ray's coming.

MINOTTI: You sure John doesn't have a team of guys come in here through the
fucking *(inaudible)*

EVERK: It might be recording.

MINOTTI: Huh.

PAGAN: Yeah.

MINOTTI: What did you say?

EVERK: I said it might be recording already.

MINOTTI: Oh

JUDGE: It's running already.

MINOTTI: I didn't know how many people were going to be in here.

EVERK: Nah.

MINOTTI: So it's just you two?

EVERK: Yes.

MINOTTI: We're not waiting for anybody else.

JUDGE: Nope.

MINOTTI: Ok, I wasn't sure.

JUDGE: This is it.

MINOTTI: Ok, no problem.

Audio and Video

PAGAN: Oh, you have like two different audios?

EVERK: It's just a backup, just in case.

PAGAN: Hahaha, yeah.

EVERK: It's June 20th at 1253 p.m. I'm here with, uh Trooper Eddie Pecan, Pagan, his attorney, Mark Minotti, Trooper Raymond Judge, and myself, Trooper Michael Everk. Uh, we're here today to discuss incident number PA 2017-516047. It's into the officer involved shooting of an Anthony Ardo. Uh, before we start, uh, Eddie, I'm gonna just read you your rights real quick. You have the absolute right to remain silent. Anything you say can and will be used against you in a court of law. You also have the right to talk to an attorney before and have an attorney present with you during questioning. If you cannot afford to hire an attorney, one will be appointed to represent you without charge for any questioning, if you so desire. If you decide to answer any questions, you may stop anytime you wish and cannot be forced to continue. Do you understand the statement of Warnings and Rights that I read you?

PAGAN: Yeah, I do.

EVERK: And you can stop uh answering any questions at any time and no promises have been made, nor have you been threatened in any manner.

PAGAN: Nods yes.

EVERK: I'll just have you sign. Mark, will you sign this?

MINOTTI: Sure.

EVERK: Right there. Thanks. Alright, can you state your full name?

PAGAN: First name, Eddie, E-D-D-I-E. Last name, Pagan, P-A-G-A-N. No middle name.

EVERK: And what's your rank?

PAGAN: Um, a trooper.

EVERK: Alright, how long have you been employed by the Pennsylvania State Police?

PAGAN: Approximately almost 4, 4 years.

EVERK: Ok, and where are you currently stationed at?

PAGAN: Um, Troop M, um, Belfast.

EVERK: Ok, how long have you been at the Belfast barracks.

PAGAN: Approximately eight or nine months.

EVERK: And where were you at before that?

PAGAN: Troop M, Bethlehem.

EVERK: Alright. Back on May 20, 2017, were you working?

PAGAN: Yes, I was.

EVERK: Alright. How were you attired that day?

PAGAN: I was in full uniform.

EVERK: And what vehicle were you in?

PAGAN: I was um operating a marked patrol car, Car 8.

EVERK: Alright, is that a uh

PAGAN: It's a SUV.

EVERK: Ok. And at, at some point were you dispatched to a 1382 Good Rd. in Lower Mount Bethel Township, Northampton County?

PAGAN: Yes, I was. Approximately at 850 hours, 849.

EVERK: And what was the call?

PAGAN: It came in as a See Officer um, for a male making suicide threats towards his mother.

EVERK: And who were you told this by?

PAGAN: Dispatcher, PCO Lenny Behler.

EVERK: And that's the only information he pro, provided on the call?

PAGAN: Um, over the radio, yes. I called him at station to get a little bit more details in regards to the call and he explained um, in more detail what was going on, as far as the threats that he was making towards his mom and, and the calls that he made himself towards, um Anthony Ardo.

EVERK: What did, uh PCO Behler exactly tell you? Do you remember?

PAGAN: I don't recollect exact wording, but pretty much he said that the mom had called saying that he had made threats and, about hurting himself and upon him calling Ardo himself, um, he did not want to tell him where he was at and related to him that he wanted to hurt himself as well.

JUDGE: You mean when PCO

PAGAN: Behler, yes.

JUDGE: Behler?

PAGAN: PCO Behler, um, he, this was told to PCO Behler by Anthony himself and he related that to me over the phone.

EVERK: Ok. Where, where were you at before you were dispatched to

PAGAN: I was actually just finishing up a non-reportable crash.

EVERK: Alright. Have you ever been to, uh 1382 Good Rd. previously?

PAGAN: Never. I never even driven that road before.

EVERK: Have you heard of uh, Jean Monaghan or Anthony Ardo?

PAGAN: No.

EVERK: Have anybody, his name or her name come up in the barracks.

PAGAN: Negative.

EVERK: Ok.

JUDGE: While you were in route

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: Up, until the time that you arrived on scene, did anybody contact you other than PCO Behler

PAGAN: Behler, no.

JUDGE: to tell, to provide you with any more information about Mr. Ardo or the incident itself?

PAGAN: I, I don't think so. I don't recall so.

JUDGE: Ok.

EVERK: When you arrived at, uh 1382 Good Rd., who did you meet with?

PAGAN: I met with the mother, Jean Monaghan.

EVERK: Was there anyone else home at the house at that time?

PAGAN: No, she was by herself.

EVERK: Ok. And what did, uh Jean Monaghan tell you?

PAGAN: Well, she went on to tell me what happened the day before, which she said that she had gotten a PFA against Anthony Ardo. Um, the day prior he was served by the Sheriff's Department and that he violated the PFA

the morning of the 20th, approximately 6 o'clock in the morning when he came to the house and started causing a ruckus looking for paperwork for his car, or such. And in the process of looking for the paperwork he began a verbal tirade toward, towards her.

EVERK: And at some point, did uh, Trooper Splain, was he also on scene?

PAGAN: Well, Trooper Splain did not arrive on scene immediately, uh with me. He came af, he came approximately fif, ten or fifteen minutes after I have arrived on scene. Well, I don't know, I can't tell you exactly how, how long he was, but I was there first.

EVERK: And she told you all this, uh

PAGAN: She told,

EVERK: before Trooper Splain arrived?

PAGAN: Yes, she told me this prior to Trooper Splain arrival.

EVERK: And then what happened. What, what else did, uh Jean Monaghan tell you after that?

PAGAN: Um, she, she told me about the uh PFA. She told me about him showing up in the morning in violation of the PFA. She told me how he left, and he call, he ended up calling her again at approximately 8 o'clock in the morning, she said and that's when he started making threats to her, towards himself, to her and over the phone. Saying that he's gonna shoot and he's gonna blow his head off, pretty much.

JUDGE: Did he get, did, did Mrs. Monaghan provide you with more detail, other than he's, did he say how he was going to blow his head off, or was, was he more specific to Mrs. Monaghan?

PAGAN: No, he, he, she just told me that he was saying he was, he's gonna get a gun, he's gonna blow himself, his head off and that everything that's happening to him is because of her and she, he referenced something about marijuana plants on the property. Saying that he's gonna get her back for doing this to her, to him, which I'm assuming is getting the PFA and getting him kicked out of the house.

EVERK: While you were at the house, did you, uh try to make contact with Anthony Ardo?

PAGAN: No. Uh, I was, I was just trying to get basic information about Ardo's whereabouts, and possible whereabouts and information that might help me get a hold, get a hold of him, physically.

EVERK: Did, did anyone get a hold of Anthony Ardo while you were at the house?

PAGAN: No, the only person that spoke to Ardo was, um PCO Behler, over the phone. The mom ended up speaking to him in the phone, in front of me, after, but we're going step by step.

EVERK: Ok.

PAGAN: Yeah.

EVERK: So, when you say the, the mom was speaking with him while you were there,

PAGAN: Yeah.

EVERK: did, was that, uh, did he call or did she call him?

PAGAN: He called her. So, what happen, what happened was, I was speaking to the mom. She was telling me all the details. When Trooper Splain arrived on scene I informed Trooper Splain of what, what the mom had told me and Trooper Splain informed me of what had happened with the call toward, towards the dispatchers. While Trooper Splain was on scene, the mom received a phone call and she looked at us and she tells me, "it's him, he's calling." So, that's when we tell her, "well, pick up the phone. Just talk to him. Do not let him know we're here." And that's when she, that's when she starts speaking to him over the phone. And he further made threats, in the phone on speaker, that Trooper Splain and myself overheard.

JUDGE: Ok. What were those threats?

PAGAN: He went, pretty much everything the mom had told us about his comments about getting her back. Uhh, about the alleged marijuana growth, whatever he was talking about. And him blowing himself was all made on the phone again. He said, he said, he's, he's gonna, he's gonna get her back for what she did to him. He's um, he's gonna get a gun, or buy a gun and he's gonna blow his head off. And then he, he said that at approximately 905 hours cause I remember exactly cause I looked at my watch when he said that.

EVERK: Now, when you say on, on speaker, did uh, did you put the phone on speaker for her or did she do it?

PAGAN: No, she, she, she did all that.

EVERK: Did anyone ask her to do it?

PAGAN: I, I asked her to put it on speaker.

EVERK: And was that the only phone call that, that was made between Jean

PAGAN: No, there was another phone call that happened later on. I mean, I don't know if you guys want me to say the whole story and then you guys just jump in and ask me questions. Cause it might answer all the questions you guys have. I don't, I don't know cause I feel like I'm missing, I'm, I'm

EVERK: Ok, if there's something were missing you let,

PAGAN: Ok.

EVERK: you can let me know. I'm just

PAGAN: Alright, yeah.

EVERK: We're just trying to fill in blanks here also.

PAGAN: Ok, perfect.

EVERK: Um, so, after that phone call, you said around 905, what happened next?

PAGAN: So, when the, when, when he made, when he made a phone call, while she was talking to him, I was trying to get her attention, but she was just so focused on the phone. I was trying, like, like with hand gestures, trying to tell her, like tell him to come over here, tell him to come over here. But she didn't, she didn't, obviously she didn't hear that. She didn't see me. She was just so focused on the phone. Um, when she hanged up the phone, we, we spoke to her like well maybe if you get him over here, you know then we, we can get him the help he needs. And in my mind I'm thinking we're gonna arrest him for the PFA violation or possibly get him 302 committed cause he made threats to harm himself over the phone, which I've heard, which I heard in person. So, she goes like "yeah, that's a good idea." So, I, I told her, we told her, "just tell him you're gonna give him money." Cause we're assuming, we're assuming, he wants, he wants drugs cause she had related to us that he's been a drug abuser for the past 20 years. So, she's like "ok, yeah, that sounds like, yeah, ok, I'll do that." So, then that's when she gets on the phone and she calls him and he goes off again with verbally abusive language that he was using towards her. And once she brings up, once she brings

up the whole thing about giving him money, he just stops and he, he just quickly agrees. He, she tells him like, "I just, just if you want money, just come and get money. I just want to make sure you don't hurt yourself." And he quickly just, you could just, you could just hear in his voice, he just stopped and he's like ok, I'll be there. It was just like so quick. It's like that's what he wanted in a way. That's, that's what I gathered from that whole conversation. Which it was, so we were like ok, alright. So, he's gonna come over her cause he wants, he wants money for drugs. So, at that point, uh that's when Trooper Splain and I started asking the mom, is there any way that we could park the cars somewhere on the property where he might not see them. In the barn or anything so that way if he's coming home and we're in the house, he doesn't see us and takes, and take off. Alright, cause now our concern is make, make sure we get hands on him because he's a danger to himself. We don't want him to hurt himself. So, that's when the mom told us, like there's no place to hide the car except, except behind the, uh the back of the house. So, then Trooper Splain and I decided to take our cars, park them behind the house, shut 'em off so that way in case he does see the cars we have rifles in the car. We don't, we want to make sure nobody breaks into our car and takes a state cruiser for a joy ride. So, so we parked the cars near the residence and then that's when I told, I told Trooper Splain we should park the cars back to each other so that way if you have to go this way you have access and if I have to go this way you have, I have access so we don't get crossed up in the same thing, cause in case, we don't have to do any backing maneuvers, we just, just straight, straight going out. Cause it's a two-way road so we don't know which way, you know which way he was coming. The mom wasn't sure either. So, we parked our cars. We shut off our cars. We go inside the house. We come up with a plan. Hid inside the house, as far as, where we're gonna, where we gonna be hiding in case he does come. Who's gonna, who's gonna do what, in, in as far as apprehending him and the plan that we came up with is that Trooper Splain was going to use um, t, t, a Taser, if, if it came to that and I was going to use lethal force. But pretty much, the plan, the plan, the plan was pretty much, I'm gonna go hands on, Trooper Splain is going to keep eye and, and back me up. But that was gonna be, pretty much be the plan to get ahold of him inside the house.

EVERK: Let's back up a little bit here. On the phone call, when you said verbally abusive, just explain, I don't know what was said, what was said on the phone.

PAGAN: Ok, yeah, well he just kept repeating the, the, the whole, the red, the rhetoric, that she had told me prior. Um, you did this to me, your, um, I'm gonna get you back. You ruined my life. Nobody has been there for you but me. I can't tell you exactly what he said, but it's more along those lines. It's like, it's like every time you needed me I have been there and

you're doing this to me so because of you I'm gonna blow my head off. I want you, I want you to know it's your fault and pretty much like stuff to like kind of get her to feel like it's her fault and not his fault for whatever he's, he was planning on doing, or allegedly plan on doing.

EVERK: So, the plan that you and Trooper Splain came up with is to have him enter the house?

PAGAN: Yes, correct, cause he was gonna come and, he's gonna come in, get money from the mom so once he comes in, it's gonna be surprise! You're under arrest for the PFA violation and you're also gonna get 302 committed.

EVERK: Ok, and you said that uh, the plan was to go hands on or Splain use the Taser?

PAGAN: Correct.

EVERK: And then, uh, you mentioned about lethal force.

PAGAN: Well, we, we tried to cover all the basis. We, we, I, I, I never in a million years would have thought that this would've turned out to use a lethal force, but it's just, it's just kind of like covering all your basis. You know, it's just being tactical minded in case he does like put on force, in case he does have a weapon like, he, cause he said he's going to blow his head off with a gun. We asked the mom, does he own a gun and the mom said no, the only gun that they have was her gun, which was, which was by her bed, which she confirmed it was still there. But, you never know if he could've got a gun from somewhere else or if he had a gun that she didn't know about. So, it's kind of, it's kind of just prepare in case he does, he does have a, a, a gun of some, of some kind.

EVERK: Was there any more phone calls after that between Jean and Anthony?

PAGAN: Yes, yes there was. Well, after Splain and I came with the plan, I positioned myself on the side of the house where I was monitoring the road coming towards the house and Splain was monitoring um, from the kitchen with the mom. He was with the mother in the kitchen, monitoring the other side of the road coming this way. So, we were separated in the house but we could hear each other, we could talk to each other from the house. So, it's a pretty small house where the echo travels and you could hear each other. You could actually have a conversation. So, as I'm in, I'm in the other room on my knees. I was actually on my knees by the rug and hiding behind some plants, just kind of find a comfortable spot to keep a look out for this guy. I heard the phone ring and the mom is like "oh, he's calling again, he's calling again." So, then um, she,

Trooper Splain, ok, alright, pick it up. When he um, when she picks up the phone, that's when Ardo gets on, I could hear him on speaker. I could hear him say oh, just, and just, and just, I don't know the exact words, but just so you know, if the cops are there, I have a bomb that I'm gonna attach to my neck and I'm gonna blow myself and everybody up with and it has nails. That was his, his pretty much what he said, bomb with nails and it's gonna be tied around his neck and everybody's gonna get blown up, that was pretty much the comment he made towards the mom on the phone.

JUDGE: and you heard this?

PAGAN: I heard, I heard this from the speaker from the other room. I was, cause I would say it's a living room. I don't know, it's kind of like a living room slash bedroom. It's like a living room that had like a sofa there, I could tell somebody sleeps there. It was just, it was a weird

EVERK: And this, this, just to clarify, uh, the room you're talking about, was that the one, is it with all the windows towards the back of the house out of the kitchen?

PAGAN: No, no, so if you, if you, if you remember the house, when you come in the main entrance by the kitchen, there's a, there's a door right there to your left. That was locked. Well, that door leads to like that living room slash bedroom area. You can also get to that room by going around that, around the rooms. It's like two entrances to that door.

JUDGE: By the stairway?

PAGAN: Yes, it was actually right by the stairway, I was right by the stairway. Like the stairway was right toward my back and I was facing the road.

JUDGE: So, you were monitoring the road as it goes down to the main road. What is that, uh?

EVERK: Lower Main Street, or Main Street.

PAGAN: Yes, something, I don't, I don't remember. Like I said, I've never driven

JUDGE: And Jay would have been monitoring the road, Good Road as it went up the hill past the other barns?

PAGAN: Correct.

JUDGE: Ok.

PAGAN: Yeah, so he was monitoring the barns coming towards the house and I was monitoring the main road coming towards the house.

JUDGE: Ok.

PAGAN: So, we were kind of like watching both, both sides.

EVERK: Now this, this third phone call

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: Um, was there

PAGAN: Second phone call.

EVERK: Second?

PAGAN: Oh, yeah, I'm sorry third. She called him, and he called, but he called back.

EVERK: Was any of this relayed to, uh PCO Behler on desk or over the radio?

PAGAN: What do you mean?

EVERK: Uh, any information that you found out uh, in reference to the, the bomb, the nails, uh

PAGAN: Well, when I spoke to PCO Behler, it was pretty much all quick and short to the point. I got, I got most of my information of what happened at desk from Trooper Splain when he came on scene. That's when he mentioned, he mentioned the threats he made, the threats he made on the phone to PCO Behler about hurting himself, not wanting to, to divulge his location and then he also made a mention of a smoke in the mountains, um type remark, which I had no idea what that meant. Smoke in the mountains, I don't know what, I don't know what he was planning on doing. But going, going back, once he made, once, once he made that whole threat of blowing himself up with the nails and stuff like that, that's when the whole smoke in the mountain think kind of like hit and clicked in my head and I'm thinking was he planning on blowing himself up in the mountains before the mom actually got him to come back for money. It was just my, my brain was just wracking like different scenarios.

JUDGE: Did you talk to PCO Behler after your initial dispatch and then you, you know speaking to him on the radio saying you arrived on scene? At all?

PAGAN: Uh, I don't recall. I might of, I might of because the radios were pretty bad, like reception was in and out. So, I might have called him, I might have. I can't, I can't recall.

JUDGE: Ok.

EVERK: Ok, and after this, uh third phone call, uh what transpired next?

PAGAN: With the whole, well, be, um, at one point PCO Behler got over the radio and he mentioned a possible location for, um Ardo. It might have been somewhere on Orchard Street. I don't, I don't know how he got that information, so we asked the mom does Orchard Street sound familiar to you? And she was like "yes, that's where we used to live before." And we're like is there any possible way that he might be up there? And she's like "it's possible." So, at that point, um Trooper Branosky got on the radio saying, well we told Behler, get Branosky to go over there. Take, have him take a drive over there cause the mom described the vehicle as a 1988 blue Buick Reatta, which is a pretty rare car to see around. It just sticks out like a sore thumb. So, just have him take a drive by over there. If he sees the car, just notify us so that way we, we know where he's at, you know and apparently, the address was not too far from the actual place of residence of the mother. So, that's when um, Trooper Branosky started heading, started heading that way.

EVERK: And then what happened next? Did Trooper Branosky get to the house?

PAGAN: No, he didn't. Cause as we were waiting, as we were waiting in the house, I'm still in the other room on my knees, waiting, just keeping an eye on the road cause I don't want this guy to sneak up on us and, and we don't see him coming to the door. So, I'm just holding my position at all times. I refused to leave that position because I'm, just officer safety, cause you don't want people to sneaking up into the house and you're unaware. Cause you're talking about something it's not relevant. So, as we, as we were, as we were holding our positions waiting for Ardo to show up PCO Behler gets over the radio and he's, I guess they had pinged his phone and he described the location as Rt. 22 and 191, in that area. So, we asked the mom, well, is there, is he heading somewhere that you know, that you might know where he's heading? And she's like "well, 22 and 191, that's where his methadone clinic is at." And then, and I believe it was New Directions Clinic. "I think is the name" she told me. And I was alright, that makes sense, that makes sense. And I'm like does he go to the clinic and she tells us "yes, he goes religiously every morning, never fails." Goes every morning towards that clinic. Now it's around 9 o'clock in the morning. I don't know what time they open, but I'm figuring oh yeah that makes a lot of sense. He goes every day, and he never fails, it's early in the morning so he's probably, he's probably in

that clinic getting um, getting his methadone, and getting his, his drugs or his medicine. Um, at which point, Branosky, um gets on the radio and says that he's gonna head down there to canvas the area. Um, Branosky heads over, heads over there and we're still waiting in the house cause we still don't know where he's at. The ping could've come from there but he, he could be making his way back home. We don't know. So, we're, we're staying with the mom just to make sure he doesn't show up. Um, so Branosky goes over there. Apparently, um Branosky calls out on scene with the um with this gentleman, with Ardo, he gets over the radio, he calls it out. I didn't hear, I didn't hear that transmission and when uh Jay heard that transmission so we tell the mom, it looks like one of our troopers is out with him over there. And the mom was like, "oh, ok, well just so you know, he has a long, he has long hair, ponytail, he looks homeless." Kind of giving us a description. So, I get on the air and I tell, I tell, um the description over the air and that's when Lenny tells me oh, Nate is out, Nate is out with um with a possible, with a possible person and whatnot. And when uh, and that's when we asked him well, you going to send back up there and he said yeah locals have been notified. So, ok, so we tell the mom, alright it looks like they might be out with him. Then um PCO Behler or Trooper Fleming, I don't know which one, gets on the radio again and says oh we just pinged the phone again for a second time and he's still showing in the same area, 22 and 191. So, that's, we're like, well then he's over there. They're sending people over there. He called out with this person, he has him. So, we told the mom, it looks like they have him, we're just going to stay here and just make sure that um, once he gets in custody then we'll take off cause then we're no longer needed over here. We have everything we need from you in regards to his information. We're just going to wait here until we actually call on the radio saying oh he's in custody and then we'll take off. Then mom was like, "oh, ok." At that point she, she made a comment to me, she's saying, saying that her fear is that her son will do something to hurt himself in front of her to kind of get pay back at her. So, and, and it just, it just baffled me cause if somebody so close would make that comment, she knows a lot more about him than we do. If she, if she, if he's done stuff to led her to believe that he wants to hurt himself in front of her, that's concerning. So, that was always in the back of my mind. So, as she was mentioning this stuff, I kind of wanted to diffuse the situation so we started talking about her house, the property, cause she has a beautiful property and she has, she has some beautiful windows in the back and I remember clearly it had um bird poop on the window. And just to diffuse the situation I brought up my house, how my wife made me clean the, the windows the week prior. Something like that and how big of a pain they are. And she started, she started laughing, oh yeah, you know, yes it's, whatever. Then she started talking about the property and that's when she started talking about financial, financial issues with the house. How that's where they moved to Orchard Street and that's when

it clicked, oh Orchard Street is where he used to live. That's how Lenny found the, uh the connection. Telling me how real estate deals fell through and stuff like that and pretty much describing financial hardship, which made, led me to believe, well he's been on, he's been a drug addict for 20 years. She made comments about how everybody's gotten him in trouble. He's always been, like gotten like PFA's, everybody's gotten PFA's against him. Girlfriends and what not, but she's been the only person. But now lately he's gotten really, really bad. So, I'm thinking, you know financial hardships, now there's no money, now he's acting out cause he wants more drugs. So, it kind of like, in the back of my mind I'm thinking maybe she's the one supplying his, his habit. I don't know, it's just, it's just the way my, my mind thinks, and I don't, I don't think that's relevant but, whatever. So, as I'm distracting her talking about the property, how beautiful the property is, I just hear, I just hear a car and tires just come to a halt right in front of the door by the kitchen area, and at that time, I already had let my guard down cause I'm thinking alright they're gonna get him soon. He's no, he's about thirty minutes away, and he's not right here so let's break down. I'm no longer on my knees looking through the window. I was in pain from, from being on my knees the whole time. He's, he's going to get caught in a matter of seconds now, let's just start breaking down, letting my guard down, talking to the mom. Well, sure enough his car just shows up. Now I see this old car, blue in color, which matches the description and I, and I, and I kind of like, not yell to the mom, but I get her attention, is that him! And she goes "yes, that's him, that's him." So Splain and I kind of like, jumped out of, jumped out of sight and went back to the original places where we were gonna be at in case he does come in. So, I'm keeping an eye on him. I was hiding by the stairs, I was hiding by the stairs cause there's a window you can that you also look through to the outside in front of the house. So, I could see the front, the front hood of the car. I can't see him, but I can see the front hood of the car. The car's still running. I don't hear any door shutting. I don't, I don't see him coming out or whatnot. So, Jay and I were like let's, let's hold position, wait until he comes inside and go with the plan as, as originally thought out. So, we're there and he's not coming out. It felt like an eternity. He's not coming out of the car. So, I'm thinking to myself does he know, does he see our cars out back. Does he know that we're here, like what is going on? Why is he not, why is he not coming out? Does he want, the mom to bring him the money outside cause he's in such a rush to get somewhere. Like, we didn't know. Well, I was, as I was keeping an eye on the car, you see the car just goes in reverse, like abrupt, like he's about to take off. So, I'm like, I scream at Jay, I don't think he's coming in. I think he's leaving. We gotta stop this guy, we gotta, we gotta, we gotta get him before he takes off, cause if he goes and he runs into somebody, he's on drugs. I'm assuming, I'm assuming he went to a methadone clinic. I'm assuming he didn't wait to take the dose after the fact. So, he's probably high on, on

drugs, driving DUI. Might, might run into somebody head on, kill somebody while on drugs. We gotta get this guy. So, we went originally with the plan. We went out the back door, cause there's a back door where he can't see us coming out. We got in our cars, and I, and I, let me go back. When he showed up, I quickly let dispatch know he's here, he's here, he's here, just so they could know that he actually showed up. I wanted to make sure everything is over the radio because, you know, this guys supposed to be elsewhere but he's showing up over here. I want them to know he's not over there, he's over here. So, I get on the radio he's here, he's here. We, we, we hide waiting for him. He's not coming out. He starts backing up abruptly. We think he's gonna leave. So, we come out, we come out back. Jay and I jump in the cars. Turn my car on and then go around the house. I get on the radio, let's pinch him in, let's pinch him in. So, as we pinch him in, as I get around the corner, Jay was already behind him with his lights on. Now, I'm, if you see the back, the back terrain of the house, it's kind of like all hilly, cause when I had to park there I had to be careful so I'm like cutting the wheel and stuff like that. And I'm thinking turn the lights on. But I can't turn the lights on because I'm use to using the steering wheel so I'm like I'll do that after the fact. So, as I get, as I get in front of him his car starts moving. So, I'm like oh my God, he's gonna, he's gonna run me over to try, to try and, to try and get away. So, I kind of like repositioned my vehicle again and he just stops. That's when I jump out the car and I press my um, my mic button in my lapel, that, which will activate the recording and act on scene. I hit that. I come out, we had, I come out guns drawn because the car's still kind of moving so I don't want, I don't want this guy trying to run me. I can't see him, I can't see him through the windshield because it was, it was foggy, it was foggy that day. It was overcast, it was under a tree and it looked like it was, like that fog that you get inside a car when, when it's too hot and the weather's different from outside and you gotta like clear up, it's the kind of fog that I saw so I really couldn't see him. All I see him, he's going like this, like he's doing a shimmy.

JUDGE: Well, let me, let me stop you here just so I have the proper perspective.

PAGAN: Ok.

JUDGE: When you came out and you positioned your vehicle to pinch him in.

PAGAN: Yeah, hmm, hmm (*nods head yes*).

JUDGE: How was your vehicle positioned in regard to his?

PAGAN: Alright, I don't know if you want to use phones.

JUDGE: Well, just describe it.

PAGAN: So, his car was, his car was facing the, facing straight ahead

MINOTTI: at you?

PAGAN: Yeah, facing me, facing the main road.

JUDGE: Ok.

PAGAN: So, when I come out, when I come out I'm still like kind of half way in the road like this and my vehicle is kind of pointing this way and that's when his vehicle started kind of like moving. So, then I just, just kind of like cut the wheel and it just like, like pinched him like this:

JUDGE: Yeah.

PAGAN: So, it was, it was, eh, I don't really know the angles, but it was kind of like right in front of him. So, if he was gonna, so if he was gonna go, he was not gonna hit me on my side. He was probably gonna hit me on the passenger side, which is a lot safer than getting head on, and if he's gonna go, he's gonna go. There's nothing I'm gonna do to be able to stop him.

JUDGE: Ok. So, when you, how far away was your vehicle from his?

PAGAN: About ten yards. I'm not sure, I don't really recall the distance.

JUDGE: Ok. Ten yards is thirty feet.

PAGAN: Yeah, about, yeah

JUDGE: Ok, that sound about right?

PAGAN: Yeah.

JUDGE: Now his vehicle is facing yours?

PAGAN: Yeah, his vehicle is facing mine, yes.

JUDGE: And is he in the driver's position?

PAGAN: He's, he's still in the driver's position. I don't know whether the cars in park or not. I just know the car was kind of like inching the first time, which caused me to get a better position of the parking, sorry, which

caused me to get a better position of the parking before I exited my vehicle. I didn't want to exit my vehicle and get run over.

JUDGE: So, he's, your vehicle is in his field of vision?

PAGAN: Yes, correct.

JUDGE: Alright.

PAGAN: He, he could, he could see my vehicle

JUDGE: Looking out his windshield he could see you?

PAGAN: Oh, yeah, he could see me head on. There's no way, I was not on his blind side, nothing. He was, he saw, he saw my marked patrol car right in front of his.

JUDGE: Ok.

PAGAN: It's, it's, you, it's undistinctable. You could see, you could tell it's a police car right in front of you. There's no way, there's no, there's no confusion about that.

JUDGE: Alright.

EVERK: And you couldn't see him completely through his front windshield

PAGAN: No, correct,

EVERK: at that point?

PAGAN: correct. I couldn't see him complete through his windshield. All I saw him is going like this. So, once, once I was, once I was there, I see Trooper Jay, Trooper Splain come out. And he's, he's also in the back and he had his gun drawn. Now, I'm over here and we're right in front of the vehicle. I look at him and I'm like if this guy tries to run me over and we have, and, and we have to use deadly force, I don't want to get caught between a gun fight and get hit. So, let me, let me do what we call a tactical L and just go to the side. So, when I did a tactical L, I ran across my car as fast as I can and then I, then I, then I engage him again, keeping my eyes on him. Shouting, let me see your hands, let me see your hands. We screamed, it felt like an eternity, we were screaming that. We screamed so many times, honestly it could have been at least 20 times we screamed let me see your hands.

JUDGE: So, you were positioned more to passenger side front?

PAGAN: No, his driver's side.

JUDGE: Prior to doing your, moving to the tactical L.

PAGAN: I was positioned right in front of him, directly in front of him.

JUDGE: Alright, so you were directly in front of him.

PAGAN: Correct.

JUDGE: And then you moved off to the side.

PAGAN: Yes, correct.

JUDGE: To his driver's side.

PAGAN: Yes. So, this, this, if you could use this light as the driver, my car is here, I'm here. I run across.

EVERK: Between the two vehicles?

PAGAN: Yes.

EVERK: Ok.

PAGAN: Yeah, I didn't go around my vehicle, no. Which, it wasn't the smartest thing, but I didn't want to, I didn't want to lose, lose visual of him.

JUDGE: When, when did you draw your firearm?

PAGAN: As soon as I came out the car.

JUDGE: Out of the car, ok.

PAGAN: Yeah, cause his car was still moving,

JUDGE: Ok.

PAGAN: So, I uh made sure he's not trying to run me over to get away.

JUDGE: Ok.

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: When did you first notice him moving?

PAGAN:

As soon as I came out of the vehicle. I, like I said, I saw a silhouette of him going like this, but I can't tell what he was doing. I can't tell, he was going like this, or what he was doing. Which that, which that was my, my thought, cause when I came across, his vehicle was stopped. We're screaming at him, let me see your hands, let me see your hands. He's not responding, he's not, he's, he's not doing anything to show the actual hands. He's just like this. So, we kept screaming, screaming, screaming, screaming. He's not responding so I'm thinking he might have his hands up like this. Cause some people exaggerate, some people like get like shy. So, like they see us the get like ohhh. So, I can't really tell which, which one he was doing. I don't know if he, I can't see if he was raising his hands or what he was doing. All I know is he was shaking. So, as I'm in the side, I start creeping up, I start, let me see your hands, let me see your hands. Cause the side window is also foggy. So, I couldn't really see through the, through the side window, it's foggy as well. So, I'm like let me see your hands, let me see your hands. And I just kept going forward cause he wasn't, he wasn't really moving. He was just like this. I'm saying like this because I saw his shoulder's tense. I didn't really, I couldn't see his hands. So, as I, as I'm moving forward and Jay's still behind, I'm trying to get a better, a better view of him and I, for whatever reason, I couldn't see inside the car. I'm like I'm, I was, I was, I thought after the fact I guess I gotta get my money back from my Lasik cause it's not working. I couldn't really see him. So, when I get close, when I get close to him, he, he's like this. He turns to me, he smiles at me. You could see his, you could see his, you could see his um, his like here. I guess the fog was like here so you could only see like his head. He turns at me, he smiles at me and then he turns the lighter on. When he turns the lighter on, that's when I could see everything, everything in the car. And I see a device stuck to his neck, like he was trying to hold his neck and the fuse in his other hand. And he goes and he lights it up, he tries to, he tries to like light it up right in front of me, as he's looking at me. He's kind of like, I don't want, I don't want to curse, but it was kind of like screw you, hahaha you're coming with me type look. It was like a menacing look, like, like my, my chills came down my spine. As I was coming close, Jay's screaming do you see something, do you see something. That's when he, he hit the whole lighter and then when I saw the lighter I'm like YES! I'm like YES! And that's, that's, my whole body just like fucking, I'm sorry, I don't want to curse, but my whole body just like, I felt this chill inside me and I knew exactly what that fuse is. I've seen fuses in my life. Couldn't really tell what he had in, in there but I saw a fuse and his look was like screw you, you're coming with me and that's when, everything just happened so fast and Jay screamed "Shoot him!" and that's when I was already retreating and taking, taking aim and then I let my rounds go and I ran. I, I, I got out of sight and that's when Jay continued to shoot. And then once we hit, once we, once we hit him,

we see him going down. So, when we see him going down I stop. At this point I was close to the, I was close to the, the edge of the grass area, I, I, I would say. That's cause when I saw him

JUDGE: Across the road or?

PAGAN: Like this, this, this, this is the driver here. When I got close to him and when I saw them, he was literally like this far from me. That's how, that's how close I had to get to be able to see inside the car. Like, like if he was outside the car, I probably could have reached out and hit, and hit, and smacked him in his head. That's how close he was when I, when I saw him do this. So, as I run back, as I ran back and let my, let my rounds go, I got to the area, that's when I see him drop. But then he gets, he gets back up. And that's when Jay, Jay hit him again. And then it's at this point, I'm like alright if this guy, if this guy's leaning over trying to light this up, ohh, we're done! So, we're kind, we're kind of looking, and kind of like trying to get away and that's when Jay, Jay approached the vehicle and, and "let me, get out the car! Let me see your hands! Get out the car! And when he opened the thing he was kind of like leaning. Alright so then Jay grabbed him, brought him out and that's when the first thing I did was like look, I was looking at his hands to see if he still had the lighter, and, and looked at his neck. That's when I saw the fuse and the device, um, the bomb tied around his neck area. And I saw smoke and my thought is like holy shit this thing is on still. Like this thing is about to blow. But then, it turns out, once we moved it, it turns out the smoke was coming out of him. So, then it was like alright. And Jay was looking for the lighter, it's like, like do you see the lighter? I'm like no, it's not in his hands. I'm like it has to be somewhere, like, alright, it's not in his hands.

JUDGE: Did you see the lighter after he initially tried to ignite it?

PAGAN: Once, I saw the lighter in his hands when he, when he lit it.

JUDGE: He was trying to ignite the fuse?

PAGAN: When he, when he was trying to ignite it. After we shot him and got him out the car, I didn't, I have no idea where the lighter is.

JUDGE: Ok.

PAGAN: Yeah.

JUDGE: At any time, did he open the door or roll down his windows?

PAGAN: Never.

JUDGE: Ok.

EVERK: Did he, did he ever, the command, you guys were giving him multiple commands, did he

PAGAN: He was not responding.

EVERK: His hands, he never spoke to you at all?

PAGAN: Never.

EVERK: Ok.

JUDGE: When you were telling him to, to uh, show his hands

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: and then also to, to get out of the car,

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: do you remember if you or Trooper Splain ever identify yourselves as State Troopers or Police Officers?

PAGAN: Ah, ah, we didn't identify ourselves, I don't, I don't, I don't remember myself identifying myself as state trooper. I don't remember Splain doing it as well but you got, you got, you got a marked vehicle behind you with a red, with red and blue lights on. You got another vehicle that comes head on, I mean not head on but comes right in front of you, you could obviously see my side, it's a, it's a fully marked patrol car and then get in front of you, and then you see this guy, you see me come out in full uniform, you know what a police officer is. You know, and, and the fact that, the fact that he made a threat towards his mom saying oh the police better not be there, he's prepared to have the police there too. In my, after the fact, I'm thinking. So, he knows what we are, there's no, there's no misting what we were. You know, so

JUDGE: So, you don't think that there was, there was any way he wouldn't have known you were a police

PAGAN: No! No.

JUDGE: Ok.

PAGAN: No.

EVERK: When you pulled in front of him, just back up a few seconds here. Uh, you mentioned about the mic, did you activate your lights on the uh patrol car?

PAGAN: No, I didn't activate my, my lights on because when I got in front of him, the steering wheel was already cut, and now if you, you're familiar with the steering wheel, it's the, the right thumb, all the way to the last button, you press up, then I believe it's one, two, three. I think that, that the number three button, when you press it up, lights come on, mic comes on. That was all discombobulated, it was all mixed around because the steering wheel was turned. So, my, my, my line of thinking is like I'm not gonna mess around with this, with this button and take my eyes off this person when I could, when I've trained myself to actually activate my, my uh, my um, my MVR with the mic.

EVERK: Ok, that's what I was going to ask.

PAGAN: Yeah.

JUDGE: You said you had difficulty seeing into, into the vehicle?

PAGAN: Yes.

JUDGE: Um, and it was because of fog, or, or some sort of condensation or moisture on the windows.

PAGAN: It was, it was either fog, well I don't, I don't think it was fog, I think it was condensation from inside the vehicle. Um, it was overcast that day. It was raining that day. And also we were underneath some trees.

JUDGE: Ok.

PAGAN: So, I don't know

JUDGE: Do you know if the windows had any sort of tint to them.

PAGAN: I couldn't tell you.

JUDGE: Ok.

PAGAN: I couldn't tell you if there, I, I, know I could see. That's, that's all I know. I know I can see or can't see.

MINOTTI: Originally you couldn't see.

PAGAN: Yeah

MINOTTI: But then you had a better view of it.

PAGAN: Yeah, yeah. Now that I think about it, after we brought him out of the car, I, I don't recall seeing tints on the window either.

JUDGE: Ok.

PAGAN: I don't think there was tints.

JUDGE: Now you said that you fired your, your uh issued weapon.

PAGAN: Correct. My issue weapon, yes, correct.

JUDGE: Your Sig?

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: Ok. Um, do you remember how many times you fired that.

PAGAN: No. Honestly, when on scene, on scene I don't, didn't even remember shooting at first. I actually recalled this after days off. It's been like a month exactly now since this happened. It took me a couple days to actually realize, like remember when I shot. Because my train of thought, on scene was I never decocked my weapon. I didn't shoot, I didn't shoot. There was no way, there was no way I shot. You know. I knew I wanted to cause I was trying to, I was trying to put the threat, um, to stop the threat and get to safety. That was my, that was my, that was my concern.

JUDGE: Ok. When you say stop the threat, what do you mean by that?

PAGAN: Stop him from lighting the fuse and give me enough space to get out of dodge.

JUDGE: Alright.

PAGAN: Either, whatever happens first, haha, you know. If I thought, if I thought I was fast enough to run away from a bomb, then yeah, but I don't think, I don't think anybody's, fast enough to get away from a bomb.

JUDGE: Ok. Now I know that you had mentioned to the, to the mom earlier, when he said that he was going to get a gun and blow his head off.

PAGAN: Hmm, hmm. (*nods head yes*)

JUDGE: Um, the mom said that he did not have a gun to her knowledge?

PAGAN: Correct.

JUDGE: And she, you said that she confirmed that the gun was in the house.

PAGAN: She confirmed, she said she only has, there's only one weapon in the house that she knows of and it's her handgun.

JUDGE: Ok.

PAGAN: That she keeps by her bed. I asked her, well is that gun still here. And she's like "oh yeah, I checked it's still here".

JUDGE: Ok.

PAGAN: I didn't see it myself, but she confirmed that, that she had checked after he had left so she knows it's still in the house.

JUDGE: Alright, so but she didn't check when you guys were there?

PAGAN: No, she didn't check when we were there. But she confirmed that she had checked after he had left and made those threats to her.

JUDGE: That morning,

PAGAN: Yes.

JUDGE: when he had violated the PFA?

PAGAN: Hmm, hmm (*nods head yes*), correct.

JUDGE: Alright, when he had made mention on the phone about getting a bomb, the police were there?

PAGAN: No, no he didn't mention getting a bomb, he mentioned he had a bomb.

JUDGE: He had a bomb, ok.

PAGAN: Yeah.

JUDGE: Uh, did, did she talk or did she elaborate or did you ask her whether or not

PAGAN: I was in

JUDGE: he had the capability to get a bomb?

PAGAN: I was in the other room. I couldn't really hear the conversation.

JUDGE: Ok.

PAGAN: I mean Jay might have spoken to her about that, but I can't, I really couldn't hear. At this point, I'm still, I'm still holding my pose, making sure he's not coming from the main street.

JUDGE: Alright, so prior to him getting there, and you observing this device around his neck and the lighter,

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: did you have any knowledge about what bomb, what kind of explosive he may or may not have?

PAGAN: Negative, negative.

JUDGE: Ok.

PAGAN: To be honest with you, I, I didn't believe him. I, I, I, people make threats like that and, and, I will learn from this in my life, my, my career, never underestimate anybody. But my thing is who the heck has a, a bomb with nails hanging around. You know, and my, I, I miss, I miss, I underestimated him. I didn't think anybody would have that. I didn't think. Who would have that besides a suicide bomber or some kind of terrorist bomber? Like that's my thought, who would have this?

JUDGE: Did, you had mentioned also, too that after, after firing the rounds, um, someone opened the door.

PAGAN: Yes, that was Trooper Splain.

JUDGE: That was Trooper Splain.

PAGAN: Correct.

JUDGE: So as far as, as you know and I don't want to put words in your mouth, this guy didn't try to open the door

PAGAN: No.

JUDGE: after rounds were fired or anything?

PAGAN: No.

JUDGE: Ok.

PAGAN: No, we, we, we waited a couple seconds before we approached the car and tried to open the door.

JUDGE: Ok.

EVERK: After, now that you remember that you did fire your weapon

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: Um, you said he fell, went down in the car

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: and he popped back up

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: What made you not fire after that point.

PAGAN: Oh, at this point, I'm trying to get, I'm trying to get out of dodge. I'm trying, I'm trying to get, I'm trying to get out of sight.

EVERK: Were you still in fear for your life at that point? Or were you in fear for your life at that point?

PAGAN: I was in fear for my life when he initially, um, lit that up and after he popped up again and, and popped it up, and, and, and popped up cause you know, you, you don't know if he's possibly trying to light that up again. I know, when I was in the academy we, we went through um, uh bomb exhibition and these bombs were these small little bombs were detonated like about a hundred, two hundred yards away from us and you could, you could just still feel the concussion of all these bombs. So, you could just image glass and shatter and whatever else he has in there, nails and, and bolts and whatever coming your way. There's no way you're, there's no way you're gonna out run that. There's no way you're gonna, if you survive that you're gonna be in ugly shape. Cause our vests are, are meant to stop hand, hand gun calibers, I don't think they're rated for, for explosive devices.

JUDGE: Do you re, did he make any threats against, um anyone other than himself? As, with mom, you know when he was talking to mom or anything that you overheard?

PAGAN: No, the whole time, the whole, the whole time initially it was all threats towards himself. And after the mom, in hindsight, when the mom made that comment about her fear is that he's, that he's gonna, he's gonna do something to himself in front of her to get, to for kind of as pay back to get back at her. Like, I, eh, eh, yeaeh. Kind of just towards, it's just towards him. He's, he's just gonna, he's just gonna hurt himself, you know to hurt her emotionally. That, that was the whole thing that I got from the conversations until he made a call saying about the bomb and the neck and I'm gonna blow myself, my, blow my head off with nails, and everything and everybody else, that type deal.

JUDGE: Ok. So then, now he's talking about collateral damage

PAGAN: Correct.

JUDGE: Killing himself and now there's gonna be collateral damage.

PAGAN: Correct.

JUDGE: Alright.

PAGAN: And, and his, his specific words is, if the cops are there, which, which it says in itself, the cops are the trigger. If the cops are there, he's gonna blow everybody up. Which, in essence, is a threat towards us.

EVERK: After, uh, uh, you said, Trooper Splain opened the door

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: pulled him out of the car, did you or Trooper Splain give first aid?

PAGAN: Uh, yeah, that, that's, I'm, cause we're talking about the whole shooting. Alright, so once, once we, we took, we took Ardo off the, we pulled him out of the car, well, not we. Splain pulled him out of the car, I was just kind of keeping, keeping eyes for any possible lit fuses or any other kind of weapons that he might have. Cause whose to say that he had a bomb, he had a bomb and just came out with a gun. You know, you never know so it's just more of officer safety. Once we pulled him out, we verified that he didn't have anything in, anything in his hands or anything that is a danger to us. That's when I ran to my car and I opened the trunk and I was trying to look for the first aid kit. Now I couldn't find the first aid kit. I don't know if it's because of the adrenaline. Like I don't, I really don't know. So, the first thing is, I saw a stack, a stack of blue napkins. And I was like these look sterile. This will do until we get EMS over here cause once the shots went off, I got on the radio and called shots fired, shots fired. We both got on the radio, send EMS, expedite immediately,

you know get em over here. That was pretty much, like get em here now. So, when I ran to the car and I got this, um this stack, my concern was like find the holes, and let's, let's plug em up til the, til the EMS gets here, more advanced medical personnel. And when I got that, Splain actually went to his car and, and, and got a, a IFAK kit and that's when we, we started taking off the combat gauze and we were, we looked, we turned, ripped his shirt off, was looking for bullet wounds and stuff like that. We found a wound, I forget which side of the shoulder. I would say it was the right side, and I might be confusing, but we saw the hole and that's when we took the gauze and just started shoving the gauze in there to stop the bleeding and then, I, I remember like looking for bullet wounds in his head. I was like feeling through his head and I couldn't find anything. At that point, um, gentleman with blue lights came in. I was trying to stop him, like dude, like we're gonna preserve this scene, but he was like I'm EMS, I'm EMS, I'm EMS. I'm like alright, the more hands the better, cause you know, I might be missing something that he knows and he might be missing something that I know. So, let's work on this guy. Let's get him the help that he needs.

JUDGE: Did you uh, prior to that EMT showing up

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: did you see anyone else at the house, outside of the house during, after your, your initial response to the house. Was anyone else around, any, any, any other

PAGAN: Yes, yes.

JUDGE: Who.

PAGAN: When uh we got to the house it was, it was just the mom. Now I didn't know that the barn next door slash house. I didn't know what it was. I didn't know that she rent, that she rent, well that she rents that property. Well, she ended up telling us after the fact, when she was talking about the financial hardships, saying that oh they, they rent. So now, when we parked our cars out back, to make sure he didn't see, we were coming down and this lady comes down and she's like is everything ok, in those, in those effects. And we're like yeah, we're just visiting. I was just trying to deescalate, I didn't want to get anybody, I dint' want to get anybody concerned. So, at this point we're thinking, you know, he's gonna come in, we're gonna grab him and we're gonna 302 him. You know, our typical 302 commitment that we've done dozens of times.

JUDGE: Ok. Do you know who this woman was at all?

PAGAN: No idea.

JUDGE: Ok.

PAGAN: No idea.

JUDGE: White, black, Hispanic?

PAGAN: White woman, like an, regular average build for a woman, for today's generation. You know, not skinny, no fat. Um, I think she might have been blonde, I'm not sure. You know, she, she looked like she was in her thirties, mid to high thirties. Early forties, who knows.

JUDGE: Alright, did, did she say anything else or, other than

PAGAN: No, she's just like ah, ok, and she just went about her business. I don't know if, I don't know if she was arriving or if she was like looking out the window and saw the cars earlier and wanted to, wanted to inquire what was going on.

JUDGE: Do you know if she was there during the actual shooting?

PAGAN: I have no idea.

JUDGE: Ok. Um, did you or Jay, uh Trooper Splain contact an ambulance prior to this?

PAGAN: No, we didn't. No.

JUDGE: Ok. Is that something that you would normally do if you anticipated a 302 commitment or?

PAGAN: Well, we, it's, it's either or. We'll call em beforehand. Well the reason I didn't want to call them is because he was not there and why have an ambulance dispatched to our location where he's not at. Also, um, we thought he was elsewhere. Cause now, now we were, we were, we were to get hands on him like we'd contact EMS, we have him detained. We could, we could stay with him a couple minutes til they get there. It's not an issue. Usually we'll detain a person. We talk to them, talk some sense into them, like listen you know, like these people are here for you. Speak to the doctors, get, get out what you have inside. All that anger, all, all those feelings, get them out. Cause it works. Trust the process. It's kind of the spiel that we usually give to people that, need help, type situations. Like I said, it's all, it's all based on the circumstances of how everything going on. He's not there so I'm not going to call EMS for somebody that's not there.

EVERK: I want to back up a little bit here just to clarify. When, uh you see him in the car, you, you said you see him light the lighter. Um, which, do you remember which hand the lighter was in?

PAGAN: Right hand.

EVERK: Ok.

PAGAN: I remember he had the right hand, fuse in the left hand. He turns around he's kind of like, ha ha, like screw you. He's, he had that smirk, he was just like hahahaha. It was just like, it was chilling. I mean it sounds like something out of a cartoon movie or a, a horror flick, but that's exactly how it happened.

EVERK: and then when he was out of the car,

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: Um, on the ground,

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: Was the, uh, the device you're talking about, was that still around his neck?

PAGAN: It was still around his neck. Like I said, I don't think, I don't think I was specific there. We looked, we looked at his neck. I saw the smoke. We moved it, you know, we removed it of his neck and then we, we threw it to the side, away from him.

EVERK: Who removed it?

PAGAN: I, actually, I'm not sure. It might have been Splain. It might have been Splain at this time.

EVERK: When it was removed, was the EMS guy on scene yet?

PAGAN: Uuum, when it was removed he wasn't on scene I believe. Cause when he got there we told him, listen that's there, don't touch it, pretty much. That, this part, this part of the whole thing is when it gets wrinkled, gets all foggy with me, as far as the timeline events or who removed what, little things like that. Because at that point my adrenaline was just so bad. I couldn't sleep for like the first two days and just still pumping away. So, take it with a little skepticism as far as the order cause I don't really remember well.

EVERK: Do you have any more questions about the actual

JUDGE: Yeah, you were, you, when you got out of the car initially,

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: when you pinched him in, when you flanked him,

PAGAN: Hmm, hmm (*nods head yes*)

JUDGE: when you and Jay flanked him, Trooper Splain, did, you said you got out, you got out of the car with your gun drawn?

PAGAN: Well, not with my gun drawn, I wouldn't draw my gun inside car, but

JUDGE: Ok.

PAGAN: I'm assuming you're saying like I got out

JUDGE: Once you got out

PAGAN: I drew it, yeah.

JUDGE: Ok. Um, once you saw him trying to light the fuse, did you consider any, any less lethal?

PAGAN: No.

JUDGE: Ok.

PAGAN: No. It's just, no.

JUDGE: Alright.

PAGAN: I mean, his window, his window was, his window was closed so it was like mmm, playing devil's advocate, if you want to go through, if you want to go through the whole process of everything you have on your belt. Like if I use the baton, by the time I break the window that things gonna be lit up. If I use, if I was going to use Taser, the windows closed, it's not gonna go through and let's say God forbid, I hit the actual device and it makes it explode. So, so that's, that's no go. Mace is not gonna work, you know. So, anything you have on your belt is not going to work.

JUDGE: Ok.

PAGAN: You know. And even, even you want to think about it too, even the, even the lethal force itself might not work cause he could still light it up whilst he's getting hit. So.

EVERK: Ok.

PAGAN: I mean, I didn't think that through, I didn't that through, it's just more reaction, but if you want to play devil's advocate and try to justify the, the other stuff we have in our belt, none of it would've worked.

EVERK: Ok. Just some other questions here. The, the previous day, uh Friday, do you remember what you worked?

PAGAN: Did I work the 3-11 shift? I know that, I know the day of the 20th, that wasn't my initial scheduled shift. That shift I switched with Trooper Jay Singley. Um, I try, I switched with him because he wanted, it was the weekend, he wanted to see his kids play sports. You know, I don't have kids, he has kids so why wouldn't I work that for my fellow trooper, let him enjoy his kids you know. That would be selfish of me. I have no plans, let him, I'll work the morning shift for him and let him, let him enjoy his kids.

EVERK: You don't remember the previous day, if you were day shift, middle shift?

PAGAN: I don't.

EVERK: Ok.

PAGAN: I, I, yeah I don't remember. I would say I double backed into that shift for him.

EVERK: Ok, well, if you double backed, do you remember how many hours of sleep you got?

PAGAN: (*shakes head no*) Usually when I double back I only get like six hours of sleep. Usually.

JUDGE: Other than, you said you handled a non-reportable crash.

PAGAN: I was handling a non-reportable crash when um, when this call came it, cause as I was about to clear, that's when um, dispatch was oh we have something else, well as I pressed clear, um, clear from the scene, I guess Lenny was like looking at the scene waiting for me to clear. As soon as I cleared, it was like hey Pagan I have something for you. And, I press clear and I'm not totally clear. I'm just making myself available in case something else pops in. Because I'm almost done.

JUDGE: Did you handle any other calls that morning?

PAGAN: No, um, my initial call was the, was the crash, the non-reportable crash and immediately after that crash I was sent to this incident.

EVERK: Ok. And then during the time of this incident,

PAGAN: Hmm, hmm (*nods head yes*)

EVERK: uh, during your shift prior to that, uh, that morning, were you under the influence of any drugs or alcohol.

PAGAN: No. I, I only drink once a year and it's, it's always on New Year's.

EVERK: And then after the uh, the shots were fired, EMS came and so forth, did you or any other, uh person in the State Police, was the scene secured?

PAGAN: Yes, w, w, when the whole thing happened and EMS was showing up, fellow troopers that we had, that we had on shift that day showed up on scene and helped like secure the scene right away. And I know that some of the fire fighters were trying to help us out and Splain was telling them, you know cover this, cover this and after all the higher ups showed up they took over completely. We just hands off.

JUDGE: When, when Jay asked you, cause he was positioned behind the car, to the, to the rear of Ardo's vehicle, he asked you does he have something.

PAGAN: He was, he was asking simultaneously when he was lighting the, the, the

JUDGE: Ok, when he said something

PAGAN: Well he said

JUDGE: did you know, you knew what he meant?

PAGAN: He said, he said shoot him

JUDGE: No, no, no,

MINOTTI: Listen, listen

JUDGE: when he said, when he said does he have something

PAGAN: Yes

JUDGE: You told, you told us earlier that you said

PAGAN: Yes,

JUDGE: he does

PAGAN: yes, yes

JUDGE: right

PAGAN: Yes. Well, it was, we didn't use exact words, but he, we like were kind of in the same, we knew, cause I don't, I don't know how we communicated with each other, I mean we haven't know each other for that long but it's like we were on the right page, the same page. We knew exactly what it was.

JUDGE: In the context of the incident you were handling.

PAGAN: Yes, exactly.

JUDGE: Are you, you're saying it was understood that

PAGAN: Yes, it was understood that it, that it was something that was a threat towards us.

JUDGE: Ok.

PAGAN: Cause if he asked, if he asked me does he have something and it's not a threat, I'm not going to say yes and risk, and risk him taking action that was not justifiable. Now if he would've had, if he would've had a pen to his neck, I would've been like, I would like, he has a pen, he has a pen, he has a pen to his neck, back off, give him space. But, you know, I'm not gonna say Yes, Yes, Yes, if he, if he has something that's no harm to us. You know. It's kind of, it's kind of universally understood I guess.

EVERK: And then, you've been a trooper for almost four years.

Video stopped, Audio only:

EVERK: Have you ever used, uh deadly force?

PAGAN: No. Never.

JUDGE: Have you ever had occasion to use, uh anything more than verbal commands to affect an arrest, or get, to get someone in compliance

before? Have you had to use hands on? Have you had to use your Taser, your ASP Baton?

PAGAN: I've used my, used my Taser, but it wasn't against a person, it was against two pit bulls that were attacking me.

Knock on door

JUDGE: Ok. I guess we're running out of tape.

EVERK: Yeah. It's June 20th at 1:54 p.m.

VILLANO: It stopped

JUDGE: Oh, it did stop?

EVERK: I'm going to turn off the tape and the audio/video is also turned off.

EVERK: He's gonna start that, and then it's going to take like 30 seconds to boot up. Just like the car.

PAGAN: You know, I was going to make that reference (*inaudible*)

VILLANO: It's recording.

EVERK: Alright, it's June 20th at 1:59 p.m. Going to start the second recording here.

JUDGE: Alright. I think when the last, the first part of the recording ended, I asked you if you had any opportunity in your four-year career to use anything other than verbal commands to affect an arrest.

PAGAN: Hmm, hmm

JUDGE: Or to bring someone in to compliance or you know follow your lawful orders.

PAGAN: Hmm, hmm

JUDGE: Uh, were there occasions where

PAGAN: Well I've used verbal commands to affect um arrests and, and stuff before. Um, as far as using any of my tools in my belt, I've only used by Taser once in my career and it wasn't against a human, it was against two lose pit bulls that were trying to attack me.

JUDGE: OK.

PAGAN: That was about the only time.

JUDGE: And, and, and the same thing, have you ever been investigated by police, any police agency since you've been a police officer, for any type of use of force incident?

PAGAN: Negative.

JUDGE: Ok.

EVERK: Is there any questions you feel I should ask you? Or something we're missing here?

PAGAN: No, I mean I pretty much said the whole story of what happened and what was going through my mind pretty much. When the whole incident occurred.

EVERK: And while you were, back when you were at the scene, towards the end, uh, no evidence, no one removed any evidence?

PAGAN: No.

EVERK: The scene wasn't altered in any way when you were there?

PAGAN: No.

EVERK: Ok.

JUDGE: Did Trooper Splain, we asked you if you had any prior contact or any prior knowledge of Mr. Ardo and you answered in the negative

PAGAN: Negative, yeah.

JUDGE: You said you had not.

PAGAN: Negative

JUDGE: Did Trooper Splain indicate to you at any time when he, he was at the scene, that he knew who this Anthony Ardo was or had any dealings or had been to that house before?

PAGAN: No.

JUDGE: Ok.

EVERK: That's all I have.

JUDGE: I don't have anything either.

EVERK: Ok, it's 2:01 p.m. I'm going to stop the recording.

MINOTTI: How long do you have to go?

JUDGE: Three year, uh three years in September.

MINOTTI: Three years left?

JUDGE: Yeah.

EVERK: It's still recording. Just, I know the tape stopped here, but it's still recording. Um, where it cut off at, before your question. Um, uh, it covered, but during the course of your four-year career, you never had to use deadly force?

PAGAN: Never.

EVERK: Ok. That's where

MINOTTI: You, you, oh, did that get cut off when you asked him that before?

EVERK: Yes.

MINOTTI: Ok.

PAGAN: Just want to make sure it was on record.

JUDGE: The department is looking into the possibility of getting a uniformed recording, audio and visual recording equipment for

EXHIBIT 9

Desk_PH_Right_2017-05-20_07_55_41

PCO Behler: State Police, Belfast. PCO Behler.

County: Hey Behler. It's County. I'm transferring over a caller at 1382 Good Rd. for her son, who is uh, suicidal, but they don't know where he is. Jean?

Jean: Yes

County: Go ahead, talk to the State Police.

Jean: Ok.

County: Thank you, bye bye.

Jean: Thank you.

PCO Behler: Yes, ma'am?

Jean: yeah, he's suicidal. He texted his father. I had to get a, um, a, POD, or, oh, I'm just a nervous wreck. Um

PCO Behler: Ok, what's your name first of all?

Jean: My name is Jean Monaghan.

PCO Behler: M O

Jean: M O N A G H A N

PCO Behler: And Good Rd., where's that at ma'am?

Jean: It's in Lower Mount Bethel township. It's, uh, 2 miles outside of Martins Creek, between Martins Creek and Bangor.

PCO Behler: And what's your phone number?

Jean: 610-533-9011

PCO Behler: How old's your son?

Jean: 47.

PCO Behler: 47 years old?

Jean: Yep.

PCO Behler: What's his name?

Jean: Anthony Ardo

PCO Behler: Where's he live at?

Jean: Well, he was living here. I had to get a, a protection order on him yesterday.

PCO Behler: Ok, so you got a PFA on him?

Jean: Yeah.

PCO Behler: Ok, why, why was a PFA

Jean: Well, because he was so strung out on drugs and he was trying to extort money from me and blackmail me.

PCO Behler: Ok. So, he has a drug history, correct? What's his date of birth?

Jean: Yeah. Um, uh, August 5th 1969.

PCO Behler: Ok, were we over there to take a report at all?

Jean: Sorry?

PCO Behler: Were we at your address before for a report or anything?

Jean: Um, no.

PCO Behler: Ok. Um, and he texted his father?

Jean: Yeah.

PCO Behler: And what did it state on the father? What did it state on the text?

Jean: Well, he, he said he was going to take a bunch of pills and inject antifreeze into his veins and then nobody would have to worry about him anymore.

PCO Behler: Um, kay.

Jean: I mean, he has a, he has a little bit of a history. Every time he's gotten, ah, ah, gotten into a situation he's always come home. I'm his freakin life line.

PCO Behler: Ok, and that's

Jean: And now

PCO Behler: Ok. So, when's the last time that you had contact with him?

Jean: Well, he came here at five o'clock this morning and, and needed the title for his car and, also warmer clothing and then he left.

PCO Behler: Ok, I'm writing all this down. Ok, when did he text his father stating that he's gonna take a bunch of pills and take

Jean: Well, they just got the text this morning.

PCO Behler: What time ma'am?

Jean: Um, I, she didn't say. I can call her back and find out. That, that

PCO Behler: Who got the text?

Jean: That, well, he, he did text his father. Um, his step-mother picked it up.

PCO Behler: Oh, so his step-mother picked it up? And where does the father and step-mother live ma'am?

Jean: They live out in um, Schnecksville.

PCO Behler: And you have no idea where Anthony is at this point in time?

Jean: I have, I have no idea. I wouldn't know where he would go. He's always come home, you know. And that's not the case, well, I uh, I just don't know where he would be.

PCO Behler: Ummm kay. Um, what's his uh, what kind of description you have for me, height, weight?

Jean: Well, he's tall, um, he's about, he's about 5'11

PCO Behler: Ok

Jean: Right, right now he's weighing about 150 pounds, he's lost a tremendous amount of weight.

PCO Behler: Ok.

Jean: He has long, light blonde, or light brown hair, um and he drives a 1988 Reatta made by Buick.

PCO Behler: Buick Reatta?

Jean: Yeah.

PCO Behler: Ok. Uh, at five o'clock this morning did you come, uh see him at all?

Jean: Well, he came in cause he wanted his title

PCO Behler: uh, huh

Jean: and his clothes and then he left right away.

PCO Behler: Ok.

Jean: Which is a violation of the protection order.

PCO Behler: Ok, well that's something you can make a, you can make note of and let the courts know when you go back down to uh,

Jean: Ok

PCO Behler: to County Court. Ok, um and all's he said, he's going to take a bunch of pills and take antifreeze and he left, right?

Jean: Hm, well he, when he texted uh his father, that's the message he left.

PCO Behler: Yeah, what color

Jean: He's called me several

PCO Behler: what color's his Buick?

Jean: Uh, blue

PCO Behler: Ok. Ok, I mean we can put out a SCOPE message if found to contact you if you want us to do that. Um, like you said, there is a drug history. If he does come back let us know. I mean, there's not a missing person or anything like that. He's forty-seven years old.

Jean: Right, well yeah, exactly.

PCO Behler: So, I mean, we could put out a message stating "if come across, uh, please have him, please contact you at this address. Please note, there is a PFA against Mr. Ardo with Ms. Monaghan." We can do that.

Jean: Ok, you can't pick him up and put him the hospital?

PCO Behler: How we gonna pick him up? We don't even know where he is.

Jean: Ok. Ok.

PCO Behler: I mean we have no clue where he is. Should he

Jean: Yeah.

PCO Behler: come back to your residence or his father's residence, uh, if you wish to commit him that's fine. You can call emergency squad and commit him. If he wishes to commit himself, so be it. Uhhh, that's pretty much out of police hands unless something happens where he's in an accident or anything like that. Then it would, then the police would take necessary means.

Jean: Ok.

PCO Behler: But 'til now, we have no clue where he is. How we gonna go pick him up and put him away?

Jean: I thought you might be able to to, tap into his cell phone?

PCO Behler: No, we can't, we can't track a phone.

Jean: Oh, ok. Alrighty.

PCO Behler: Alright?

Jean: Um, and, and, and you are who?

PCO Behler: I'm PCO Behler. B E H L E R.

Jean: Ok, thank you so much.

PCO Behler: You're welcome.

Jean: Um, bye bye.

PCO Behler: Bye.

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PCO Behler: State Police, Belfast. PCO Behler.

Jean: Uh, yeah, this is Jean Monaghan calling back.

PCO Behler: Yes, ma'am?

Jean: Um, yeah, we, we called uh the suicide hotline and they had mentioned that, that you can do an involuntary commitment, and IVC. And, they, and, and that hotline did say that you guys can do something.

PCO Behler: Ok, what, I don't, what do, what can we do besides send that message?

Jean: Well, send the message and if you find his car and you find him, then, then commit him.

PCO Behler: Well, yeah, if we, if we find the drugs on him. I mean five o'clock this morning he left, correct?

Jean: No, he stopped back because I got the, the

PCO Behler: Ok, what time, what time did he leave? Cause you called me at 8 o'clock, correct?

Jean: Well, uh, no, it was a little earlier than that.

PCO Behler: Ok.

Jean: It was about 7:30.

PCO Behler: Ok.

Jean: So, yeah, so, I haven't seen or, or he keeps calling but I'm not answering the phone.

PCO Behler: What's his cell phone number?

Jean: It's um, 484

PCO Behler: Hmm, hmm.

Jean: 903

PCO Behler: Ok

Jean: 4519

PCO Behler: Ok, so he keeps calling you but you're not answering your cell phone?

Jean: Well, no

PCO Behler: Ok.

Jean: That, again, is in violation.

PCO Behler: Well, ok. So, my, my question is to you, ma'am, and I'm not gonna be rude to ya, if you're concerned for his welfare, and now he's violating the PFA, now you want the police to try to find him and commit him? Am I correct in saying that?

Jean: Yes.

PCO Behler: Ok. I'll give him a call and see where he is.

Jean: Ok.

PCO Behler: Alright?

Jean: Are you gonna call me back?

PCO Behler: Yeah, sure. If you pick up your phone, I'll call you back.

Jean: Yes, well, ok.

PCO Behler: Ok.

Jean: Yes.

PCO Behler: Yep.

EXHIBIT 10

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PCO Behler: State Police, Belfast. PCO Behler.

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PCO Behler: Ok.

Jean: Yes.

PCO Behler: Yep.